

**Rhetoric, Ritual and Reality:
Understanding the Relationship
Between Ex-Combatants and the TRC
in Sierra Leone**

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Signed Declaration

I declare that this thesis has been composed solely by myself and that it has not been submitted, in whole or in part, in any previous application for a degree. Except where stated otherwise by reference or acknowledgment, the work presented is entirely my own.

Sayra van den Berg

February 28, 2020

For Bobby

Abstract

This thesis explores the relationship between ex-combatants and the Truth and Reconciliation Commission (TRC) in Sierra Leone. It fills important empirical and conceptual lacunae in foregrounding the transitional justice experiences of ex-combatants, a population that is both necessary to, but neglected within, the broader study and practice of transitional justice. Using qualitative research methods, it develops a multi-level and nuanced understanding of the relationship between ex-combatants and the TRC. On the institutional level this thesis critically examines the rhetoric, ritual and reality of transitional justice, and of post-conflict truth commissions in particular. On the micro-level, it unearths ex-combatant expectations, experiences and impacts in relation to Sierra Leone's TRC. Along its institutional axis, a critique of the rhetoric of transitional justice addresses the normative foundations of this discourse. The dimension of ritual addresses the question of whose justice was formally captured within the TRC in Sierra Leone. The problematic binary identity model of transitional justice, that simplifies, dichotomises and pits pure victims against evil perpetrators is exposed. The reality of transitional justice empirically explores the practice of justice-seeking on the ground. This highlights the translation of the normative production, and institutional practices of, privilege, onto local transitional justice participant populations, and the deleterious effects thereof. Along its micro-level axis, this thesis develops an in-depth localised understanding of the relationship between ex-combatants and the TRC in Sierra Leone. This thesis illuminates ex-combatant expectations held towards the TRC, and in so doing reveals their justice needs. It assesses their experiences of the TRC, and in particular analyses participation deterrents. A localised framework for evaluating TRC impact is used to analyse the effects of the TRC on this population. The complex lived experiences of war, among ex-combatants, do not conform to the neat binary identity framework provided by transitional justice. Their relegation to the fringes of this discourse and practice has significant effects on the overall contributions and effectiveness of transitional justice moreover,

which must break these binaries if the truth-telling, reconciliation and prevention aims of truth commissions are to be meaningfully achieved.

Lay Summary

This thesis explores the relationship between ex-combatants and the Truth and Reconciliation Commission (TRC) in Sierra Leone. Truth commissions are restoratively-oriented mechanisms of transitional justice, and are premised on a foundation of local inclusivity and establishing a historical record of violence and abuse (truth-telling). This thesis adopts a multi-level approach, interrogating the normative, institutional and individual levels of Sierra Leone's TRC, to uncover the experiences of ex-combatants in relation to the TRC. This thesis argues that the ex-combatant community, considered 'perpetrators' within the TRC, is a necessary but neglected population within truth commission structures and operations.

On the normative and institutional levels, this thesis highlights the binary identity framework of transitional justice, and its application within Sierra Leone's TRC. This binary identity framework constructs rigid 'victim' and 'perpetrator' identities for its participants and applies them to conflict-affected individuals. Victim needs are privileged within this binary participation structure, and designated perpetrators are marginalised from participating within purportedly restoratively-oriented truth commissions. This restricts the ability of truth commissions to fulfil their own mandates of inclusive participation and establishing a full historical record. Using the lens of the ex-combatant population in Sierra Leone, this thesis uncovers the disjuncture between the TRC's promise of inclusivity against its practice of exclusion, as experienced by ex-combatants themselves. Sierra Leone's TRC empirically demonstrates the detrimental effects of this binary identity framework within in transitional justice in action.

To explore and describe the relationship between ex-combatants and the TRC in Sierra Leone, 147 interviews were conducted for this research. A total of 112 ex-combatants, belonging to each of the main domestic armed groups active during Sierra Leone's civil war, have been interviewed. Additionally, 21 members of civil society, instrumental in the establishment and operations of the TRC were interviewed. A further 11 TRC officials were interviewed in order to

shed empirical light on the institutional dimension of the relationship between the TRC and the ex-combatant community. Lastly, three victims were also interviewed. Interviews took place across the three regional capitals of Sierra Leone, in Freetown (the country's capital), Bo and Makeni, between 2016 and 2019.

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This thesis is the culmination of four years of research, and has taken me to Edinburgh, Freetown and finally back home to The Hague. It has by no means been an insulated journey. This thesis simply would not have been possible without the incredible guidance, support and encouragement that I have received along the way. The road has been long and winding and it would be impossible to even attempt to adequately thank every single person with whom I've crossed paths along the way, and have provided me with beacons of light and hope. The final days of writing this thesis have been a time of immense reflection and as I write these words I realise that I am overwhelmingly filled with gratitude for all of you. To everyone whose name is not included in these acknowledgements, know that your friendship and support is seen and felt.

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People often warn you that life during your PhD can be really isolating. The truth is, no matter how often or how much you are told this, nothing really prepares you for just how difficult that isolation can be. The only real remedy for this are the quality of people whose support you fundamentally rely on to guide you through the darker days, and who remind you that life is full and vibrant. To that end I have been disproportionately blessed with the absolute best people. Simeon Koroma, I am so thrilled to call you both a colleague and a dear friend. With you I found a friend, a micro-PhD community in Freetown, and an opportunity to work with Timap. While our research seminar days may be behind us I look forward to seeing your own research continue to grow and evolve. At the core of my tribe in The Hague are Mo and Amélie, though this friendship also has its roots in Freetown. I can't tell you both how lucky I feel that we have all found our way to The Hague; you both make my hometown really feel like home. Thank you for giving me so much to celebrate in this new chapter of life. Fitri is the

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Do I contradict myself?

Very well then I contradict myself,

(I am large, I contain multitudes.)

Walt Whitman

Contradictions do not invalidate personal truths. On the contrary, they showcase the incredible diversity of our very humanity. To each and every single person who participated in this research, who gave me their time, their truths, and their trust – thank you for your multitudes. I hope I have done them justice.

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Part One

Chapter 1

Introduction

The implementation of transitional justice mechanisms in post-conflict societies has undergone a remarkable proliferation in recent decades (Sriram, 2013; Thoms, Ron and Paris, 2010). Concurrently, the field of transitional justice has witnessed a rapid evolution, moving from the “margins to the mainstream of global politics” (Dancy, Kim and Wiebelhaus-Brahm, 2010, p. 1; Bell, 2009). However, despite their averred importance for post-conflict stability, these processes are increasingly criticised for their lack of local responsiveness (Fletcher and Weinstein, 2015). This thesis focuses on one particularly significant transitional justice mechanism – post-conflict truth commissions – to better understand ex-combatant engagement in post-conflict peacebuilding processes, through the empirically illustrative case of Sierra Leone. Specifically, it explores the TRC expectations, experiences and impacts of predominantly non-participant¹ ex-combatants, in order to illuminate the transitional justice experiences of this particular segment of ‘the local’ and critically assess the supposed cascading effects of truth commissions according to their proponents. This thesis presents the first in-depth and empirically grounded examination of the relationship between ex-combatants (also referred to as perpetrators) and post-conflict truth commissions. Through a nuanced exploration, this thesis seeks to understand both the institutional treatment of this population and the micro-level transitional justice experiences of ex-combatants in relation to the Truth and Reconciliation Commission (TRC) in Sierra Leone. The relationship between perpetrators and truth commissions has received no dedicated consideration (Skjelsbæk, 2015), despite the important and necessary participation of perpetrators therein (Freeman, 2006). This thesis joins a growing sub-field of research that

¹ The term ‘non-participant’ is used throughout this thesis to refer to ex-combatants that did not directly participate in the TRC, meaning that they did not provide statements to, or directly participate in the hearings of, the TRC.

examines variation in local attitudes towards, and experiences of, transitional justice processes (see Aguilar, Balcells and Cebolla-Boado, 2011; Nussio, Rettberg and Ugarriza, 2015; Stover and Weinstein, 2004). It challenges the traditional and problematic binary presentation of conflict experiences that the normative and institutional dimensions of transitional justice have produced and proliferated: that of victims and perpetrators.

Through an abductive approach, this thesis uses qualitative methods to explore, describe and understand the relationship between ex-combatants and truth commissions. In particular, this thesis explores the relationship between Sierra Leone's TRC and the community of ex-combatants who did not directly participate within it. A detailed understanding of the relationship between ex-combatants and the post-conflict truth commission in Sierra Leone is achieved through a multi-level analysis of this relationship, along institutional and micro-level axes. The first axis of this research (its institutional axis), of transitional justice rhetoric, ritual and reality reflects the normative and structural² dimensions of transitional justice broadly, and the TRC in Sierra Leone specifically. The rhetoric of transitional justice refers to the normative plane of this discourse, which this thesis reveals to be replete with problematic and unforgiving binary identity assumptions. These assumptions restrict the responsiveness of the field to the realities of complex lived conflict experiences, and dangerously privilege the voices and needs of some, at the costs of others. This, in turn, risks cementing oppositional conflict identities instead of dismantling them. The ritual of transitional justice refers to the institutional or structural domain of the discourse, and examines the translation of the field's broader normative assumptions onto its particular institutional mechanism of the TRC in Sierra Leone. This particularised institutional examination involves analysing the model of

² Throughout this thesis, the terms institutional and structural are used interchangeably, to refer to the formal structure of the TRC in Sierra Leone specifically. Discussions around the 'structural (or institutional) dimension' of this research therefore refer to examinations of the formal mandate and operations of the TRC.

participation constructed by the TRC. Lastly, the reality of transitional justice practice is assessed, to shed empirical light on how these normatively derived and institutionally expressed binary and hierarchical models of participation were implemented in Sierra Leone. Together, these three dimensions illuminate the macro-level component of this thesis, and allow for an analysis of the relationship between the TRC and ex-combatant community on the institutional level. The second axis of this research (its micro-level axis) comprises an in-depth exploration of non-participant ex-combatant expectations towards the TRC, their experiences of it, and the impacts they associate with it. This is achieved through the construction of ex-combatant narratives in relation to the TRC in Sierra Leone, using the meanings, values, experiences and interpretations that they attach to this institution. Semi-structured, in-depth interviews were conducted with 112 ex-combatants, who did not participate directly within the TRC in Sierra Leone, throughout a period of over two years of fieldwork in Sierra Leone. Archival data in the form of TRC statements supplemented primary data collection to broaden and enrich the scope of research. In-depth interviews with 11 TRC officials, and analysis of the TRC's mandate and final report has enabled a detailed examination of the TRC's institutional design and operations. Finally, in-depth interviews with 21 members of civil society, involved in the work of the TRC adds nuance to this research, due to the role played by civil society in calling for the TRC, aiding in its outreach work, and as representatives of the wider realm of the local in Sierra Leone. Unearthing ex-combatant expectations towards the TRC sheds empirical light on localised justice needs and reveals important disparities between local understandings around the TRC and its institutional ambitions. The dimension of experiences showcases the significant limiting effects of multiple processes and sources of exclusion on ex-combatant participation within the TRC. Finally, an analysis of the impacts associated with the TRC among this population highlights the need to re-examine conventional and limited measures of transitional justice success, and popular but unaccommodating evaluation standards within extant research. Together, this localised

axis forms the micro-level dimension of this thesis. This multi-level approach enables the comprehensive and detailed illumination of the relationship between ex-combatants and the TRC in Sierra Leone. The normative and institutional critiques put forward throughout this thesis makes several conceptual contributions to the discourse of transitional justice, while rich empirical analysis advances the burgeoning localisation scholarship in the field.

An understanding of the relationship between the TRC and non-participant ex-combatants in Sierra Leone enables this thesis to critically engage with one of the core claims of truth commission advocacy: that these bodies exercise a positive impact on not only their direct participants, but also on the wider population of individuals, communities and states (comprising the full breadth of the local) wherein they are implemented (Ainley, 2015; Skaar, 2018). Through its localised approach, this thesis addresses core questions such as institutional inclusivity, non-participation, micro-level justice needs, expectations, experiences, impact and agency.

Along its two axes of research, this thesis examines a number of questions to comprehensively address its overall research puzzle: understanding the relationship between ex-combatants and the TRC in Sierra Leone. Along its institutional axis, within the three dimensions of the rhetoric, ritual and reality of transitional justice under examination, the following sub-questions enable a comprehensive understanding of the institutional relationship between the TRC and ex-combatant community in Sierra Leone.

1. Rhetoric: Why is there a globalised need for transitional justice and what is the identity framework produced by this discourse? What space do perpetrators occupy in this identity framework?
2. Ritual: Whose justice agendas determined the design and goals of Sierra Leone's TRC? What was the participation framework of the TRC and did this privilege certain transitional justice actors? How inclusive (or exclusive) were its design and ambitions?

3. Reality: How did the TRC in Sierra Leone implement its local participation framework? How inclusive (or exclusive) were its operations in reality? What was the practice of justice-seeking implemented by the TRC in relation to its identified local TRC participants?

Along its second, micro-level axis, this research uses the following sub-questions to generate a nuanced localised understanding of the transitional justice expectations, experiences and impacts of ex-combatants in relation to Sierra Leone's TRC.

1. Expectations: What were the post-conflict justice needs of ex-combatants in Sierra Leone? What did they expect the TRC to achieve in Sierra Leone; why and how? What informed these expectations?
2. Experiences: Why did this population of ex-combatants choose not to participate in the TRC?
3. Impact: What impact, if any, did the TRC have on this population of non-participant ex-combatants? What impact, if any, did the TRC have in Sierra Leone, according to this population?

According to Macdonald (2013), understanding perpetrator experiences is one of the most heavily neglected themes in transitional justice research to-date. It is precisely this empirical and conceptual gap that this study addresses. Additionally, prior research has identified variation in individual responses to, and experiences of, truth commissions on the local level (see for instance Aguilar et al., 2011; Nussio et al., 2015; Samii, 2013; and Millar, 2011) and simultaneously celebrated truth commissions for their high levels of local participation (Freeman, 2006; Hayner, 2010). Transitional justice processes vary in their impact across local actors. Evidence of this implicit awareness within research abounds. Work highlighting the importance of local examinations of transitional justice has begun to address micro-level variation from both agency (how individuals affect these processes) and structural (how these processes impact individuals) perspectives. Work by Skaar and Wiebelhaus-Brahm (2013) and Sriram (2013)

highlights the role of local agency in determining the path of transitional justice implementation. Such research identifies the significant role that 'drivers' and 'spoilers' of justice can play in the successful implementation and even design of these processes. The need to disaggregate the impact of transitional justice processes along the micro-level of conflict-affected individuals and segments of the local is also growing. Studies by Nussio et al. (2015), Aguilar et al. (2011), Samii (2013) and Millar (2011) highlight the reality of transitional justice impact variance on the micro-level, and shed light on local attitudes towards, and experiences of, these processes. It is against this backdrop of truth commission impact variance and the purported inclusivity of such institutions, that this study showcases (i) the need to develop a nuanced and localised understanding of perpetrator experiences of transitional justice, and (ii) the relationship between perpetrators and truth commissions in particular.

This thesis is composed of three parts, and contains 11 chapters. Part One comprises three chapters: the introduction, research design and methodology, and a literature review of transitional justice and background summary of the context of Sierra Leone. Following this chapter's introduction Chapter 2 details the research design and methodology employed to develop the empirically rich and detailed analysis of the relationship between ex-combatants and Sierra Leone's TRC in this thesis. Chapter 3 comprises a literature review tracing the development of transitional justice and the core debates within the field, and is followed by a historical background of Sierra Leone, its civil war, and relevant post-conflict processes. Part Two develops the theoretical frameworks used throughout the thesis, and is composed of two chapters (Chapters 4 and 5). Chapter 4 lays out the theoretical foundations of this study's critical examination of the rhetoric, ritual and reality of the broader enterprise of transitional justice. Chapter 5 develops the two frameworks constructed for subsequent analysis in this thesis: an institutional engagement framework to examine the TRC's structural treatment of ex-combatants, and a localised evaluation framework against which the impacts of the TRC among this population is assessed. Part Three of this thesis is dedicated to

the detailed empirical analysis of the relationship between ex-combatants and the TRC in Sierra Leone, and contains six chapters (Chapters 6 to 11), presented along the lines of expectations, experiences and impact. It also contains the concluding chapter of this thesis, which synthesises its findings and presents recommendations for further expanding and enhancing localised understandings of transitional justice for future research. This chapter now proceeds by clarifying the central concepts of this thesis's investigation, by defining truth commissions, perpetrators, transitional justice actors and the local.

Defining Truth Commissions

As outlined above, this thesis examines the relationship between ex-combatants and the TRC in Sierra Leone. The case of Sierra Leone is used as an illustrative case study of an official, post-conflict truth commission, established in Africa after 1995, whose operations have been completed. Definitional inconsistencies around what constitutes a truth commission makes it necessary to clarify why the case of Sierra Leone's TRC has been selected as the case study for this examination. Inconsistencies around how truth commissions are defined in research has resulted in an elastic universe of cases that varies between studies (Wiebelhaus-Brahm, 2009; Skaar, 2018). Hayner (2001;2011) has provided the "most widely used" (Skaar, 2018, p. 403) definition and she is considered to be "the leading authority on the subject" (Freeman, 2006, p. 12). This study therefore adopts Hayner's updated definition of truth commissions, as official (state-authorised or empowered), temporary bodies established to investigate patterns of violations over a particular period in the past that conclude with a final report and recommendations for reforms, and which engage directly and broadly with affected populations (2011, p.11). Of these five criteria, the need for truth commissions to engage with affected populations is a new addition to Hayner's original four requirements (2001). This criterion is particularly significant here, as it reinforces the role of local engagement as a defining feature of truth commissions. Additionally, Hayner's fourth criterion, requiring that a truth commission

concludes with a final report and reform recommendations, highlights the particular utility of a retrospective examination, limited to truth commissions that have completed their operations and produced such a report. Sierra Leone's TRC meets all five of Hayner's criteria, and can thus be considered to legitimately fall into the category of appropriate truth commissions suitable for an investigation into this particular mechanism of transitional justice.

In selecting Sierra Leone as the case study for this thesis, regional and temporal restrictions were applied, through which Sierra Leone's TRC emerged as particularly appropriate for examination. While truth commissions, as a response to periods of human rights abuses, have proliferated globally, they are highly concentrated across Africa in particular, with almost 30% of truth commissions established there (Hayner, 2010). South Africa's infamous truth commission was established in 1995, is widely held to have changed "the entire approach of truth commissions" (Millar, 2011 p. 521), and has inspired the establishment of such commissions in other countries, thereby contributing to their proliferation (Hayner, 2006). Truth commissions established in Africa, after 1995 have therefore formed the regional and temporal starting points for case selection. The truth commission in Sierra Leone, established in 2002, meets these regional and temporal criteria.

Lastly, in selecting Sierra Leone, this thesis limited case selection to a post-conflict truth commission in particular, due to its interest in perpetrator inclusion and the participation models and practices of such institutions. Commissions established to deal with periods of 'unconstitutional government' such as for instance in Ghana are expected to afford a smaller role (if any) to the inclusion of perpetrator experiences, as guilt is already widely known and established. Conversely, in the case of post-conflict truth commissions, the perpetrator population extends beyond the state party, as armed conflict requires multiple armed parties (The Uppsala Conflict Data Programme (UCDP)). Given the multiple possible conflict experiences that can be held among all local actors, such a requirement is

necessary to fulfil the ambitions of this research endeavour. The terms truth and reconciliation commission, truth commission, and commission are used interchangeably throughout this thesis.

Ex-combatants and Perpetrators

In examining the relationship between ex-combatants and the TRC in Sierra Leone, this thesis operationalises this population as: (i) low to mid-level ranking ex-combatants; (ii) defined as perpetrators by the TRC itself; (iii) who did not risk facing prosecution before the concurrently operating Special Court for Sierra Leone (SCSL, the Special Court, or the Court)³; (iv) and who did not directly participate within the TRC (meaning that they did not provide statements or testimony). The terms perpetrator and ex-combatant are used interchangeably throughout this thesis, for reasons elaborated below, in reference to this population of individuals with combat histories and who were designated as perpetrators by the TRC as a result.

In a seminal study on ex-combatants in Sierra Leone, Humphreys and Weinstein (2004) use three criteria to define ex-combatants. According to them, an ex-combatant is (i) “any individual who lived or worked with a fighting faction” (p. 9); (ii) “for at least one month during Sierra Leone’s conflict” (p. 9); (iii) regardless of their participation within the various phases of DDR. This thesis expands this definition of ex-combatants as individuals who; (i) participated directly in Sierra Leone’s civil war as low to mid-ranking members of an armed faction; (ii) for a minimum duration of six months; (iii) regardless of their participation within DDR. This thesis has elected to expand the criterion of duration of armed group membership used by Humphreys and Weinstein (2004), from one to six months, to restrict its sample of interviewed ex-combatants to individuals with longer fighter histories. The sample of ex-combatants is also restricted to low to mid-level ex-combatants for two reasons: firstly, this constitutes the bulk of the ex-combatant population, or the ‘everyday perpetrator’, whose TRC

³ The Special Court for Sierra Leone (SCSL) operated alongside the TRC, as a punitive ad-hoc instrument of transitional justice. The SCSL is described in detail in Chapters 3 and 7 of this thesis.

experiences are of primary interest for this thesis. Secondly, this criterion excludes higher level architects of violence and enables this research to engage with the population of ex-combatants that fell within the definition of perpetrators used by the TRC but who were excluded from consideration as perpetrators by the concurrently operational SCSL.

As outlined above, this thesis draws from the TRC's own definition of perpetrators and the jurisdiction of the SCSL to identify its population of perpetrator ex-combatants. The TRC adopted a broad definition of perpetrators, encapsulating all individuals, as well as the State (the government), who participated in human rights and international humanitarian law violations during the war.

Volume 1, Chapter 3 of the TRC Final Report in Sierra Leone (2004) provides the following definition of perpetrators:

Perpetrators may be public officials or members of quasi-governmental or private armed groups with any kind of link to the State or of non-governmental armed movements having the status of belligerents. Perpetrators may be the direct offenders, or they may be accomplices...the fact that the perpetrator of violations acted on the orders of his Government or of a superior does not exempt him or her from criminal or other responsibility (para. 45).

According to the TRC therefore, all individuals belonging to an armed group were considered perpetrators⁴. Conversely, the SCSL adopted a narrow definition of perpetrators, limiting its jurisdiction and indictments to the primary architects of Sierra Leone's civil war. Operationalising perpetrators as low to mid-level ex-combatants enables this thesis to focus on the population considered perpetrators by the TRC, but excluded from the SCSL. This allows this thesis to engage critically with the widely held claim that ex-combatants were reticent to participate within the operations of the TRC, due to their

⁴ It is relevant to note that the TRC's broad definition of perpetrators also included non-combatant perpetrators. Therefore, according to the TRC, while all ex-combatants were perpetrators, not all perpetrators were necessarily ex-combatants. Issues of access present obvious difficulties in expanding this study's population of interest beyond that of ex-combatants as perpetrators. For this reason, within this thesis 'perpetrators' refers exclusively to the population of low to mid-level ex-combatants.

fears of prosecution before the Special Court (TRC Final Report, 2004). Additionally, Hayner's (2004) preliminary analysis of Sierra Leone's truth commission treats the categories of perpetrators and ex-combatants as synonymous. Therefore, this thesis similarly uses the terms perpetrator and ex-combatant interchangeably, to refer to the same population (see criteria above).

Lastly, the sampling criterion of non-participation among ex-combatants allows this thesis to address questions of participation deterrents, and examine the issue of inclusion through the lens of processes and sources of exclusion. An exclusive focus on non-participant ex-combatants also allows this thesis to critically examine the claim that truth commissions exert a broader indirect or cascading impact, across individual, community and national levels, beyond the population with which this truth commissions engage with directly. While this sampling choice enables a critical assessment of questions of participation deterrents, structural exclusion and the indirect effects of truth commissions among the local in relation to ex-combatants, the focus on non-participant ex-combatants is also the result of logistical challenges experienced over the course of fieldwork and data collection. The choice to restrict primary data collection exclusively to non-participant ex-combatants was partly spurred by challenges faced in accessing participant ex-combatants during the first 12 months of fieldwork. This, in combination with the loss of a portion of the data collected during these 12 months, necessitated the amendment of this study's research design, to focus on the population of ex-combatants with whom access could be readily facilitated through my existing networks, in this case, the population of non-participant ex-combatants in Sierra Leone. Further elaboration of the sampling criteria employed in relation to the population of non-participant ex-combatants for this study can be found in Chapter 2.

While this research focuses on non-participant ex-combatants (defined as perpetrators) in relation to the TRC in Sierra Leone, it is nonetheless premised on the argument that perpetrator participation within truth commissions is both necessary (Freeman, 2006) and widely neglected

(Macdonald, 2013; Nwogu, 2010). The role and significance of ex-combatants in TRCs remains murky. More typically, transitional justice mechanisms are considered to be victim-oriented (Freeman, 2006). This viewpoint fails to recognise the necessary contribution that non-victim participation makes to achieving the TRC aims of truth-telling, reconciliation, accountability, and deterrence. Perpetrators hold direct relevance within TRCs, which are premised on broad and direct engagement with affected populations (Hayner, 2010). Fulfilment of the core TRC aims inherently entails the meaningful participation of both victim and non-victim conflict experiences. Indeed, Sierra Leone's TRC was explicitly established as a platform for "perpetrators to relate their experiences" and to foster a climate for "constructive interchange between victims and perpetrators" (TRC Act, 2000, Article 6(2)(b)). Ainley, Friedman and Mahony (2015) similarly observe ex-combatant engagement to be one of the TRC's objectives. The absence of meaningful perpetrator participation within TRCs may contribute to "the establishment of a narrower truth" (Bisset, 2012, p. 97) and impedes the ability of TRCs to "create a forum of exchange between victims and perpetrators" (TRC Final Report, 2004, Chapter 6, paragraph 59). Yet, despite the necessary role that ex-combatant perpetrators play, as meaningful participants in TRCs, scholarship and practice has, to date, neglected to consider their expectations or experiences.

Exploration of the truth commission experiences of ex-combatants is therefore necessary. TRCs currently operate under the assumption that the lack of punitive repercussions associated with their non-judicial character sufficiently incentivises ex-combatants to come forward and seek forgiveness or confess to their wartime atrocities within the platform of truth-telling and reconciliation provided thereby (Freeman, 2006, p. 161). Policy makers, practitioners and academics alike have failed to investigate the appropriateness or sufficiency of this logic of assumed perpetrator (ex-combatant) participation. Questions of why and how ex-combatants participate have been restricted to institutional and western normative "rhetoric," while micro-level expectations and the "realities" (McEvoy and McConnachie, 2012, p. 527) of transitional justice among conflict affected populations remain unknown. This

thesis empirically unveils the hitherto unexplored and largely normatively assumed relationship between truth commissions and the particular population of (non-participant) ex-combatants, through the illustrative case of Sierra Leone's TRC.

Chapter 6 demonstrates that perpetrator participation was explicitly required on the truth commission's structural level, needed to fulfil its own mandated aims. Chapter 4 exposes neglect towards the complexities of lived perpetrator experiences, on the normative and institutional levels of truth commissions. This neglect finds expression in the restrictive binary identity model of participation that now dominates the practice of transitional justice. In exposing this disjuncture within the TRC, of necessary but neglected perpetrator participation, and focusing on the experiences of non-participant ex-combatants this thesis both illuminates the need for perpetrator participation and empirically demonstrates this neglect in praxis. Three overarching questions guide this examination: on the institutional level (i) who produces the perpetrator, and (ii) how is the perpetrator treated? And on the micro-level, (iii) how does the perpetrator experience transitional justice?

Transitional Justice Actors: entrepreneurs and participants

The "industry" (Madlingozi, 2010, p. 208) of transitional justice is populated by a diverse set of actors. Disentangling these nebulous relationships, between the norms, institutions and practices of transitional justice and its population of actors is necessary in order to clarify what transitional justice is, what it seeks to achieve, how it does so, and what its impacts are. It is only through illuminating the constellation of relationships, within this industry (between actors and institutions) that questions of agency can be appropriately examined. In particular, this thesis's micro-level orientation, investigating the ex-combatant community in Sierra Leone, requires demystifying the positionality of this population in relation to the specific transitional justice mechanism of the TRC there. This can only be achieved by placing the TRC's engagement with them within the context of its larger constellation of relationships. Additionally, this allows this study to

analyse the relationship between the TRC and the ex-combatant community in isolation, and relative to other relevant actors as well. Building on work by Madlingozi (2010) and Selim (2017), this thesis defines the body of transitional justice actors as comprising two groups that reflect the external (international and top tier national) and local (sub-national) dimensions of the field: transitional justice entrepreneurs and transitional justice participants. Building on such extant work on the body of transitional justice actors, this thesis adds nuance to this framework of actors, in particular by disaggregating the group of transitional justice participants.

Madlingozi (2010) uses the term transitional justice “entrepreneurs” to refer to what he calls “a well-travelled international cadre of actors” who

theorise the field; set the agenda; legitimise what constitute appropriate transitional justice norms and mechanisms; influence the flow of financial resources; assist governments in transition; invite, collaborate with and capacitate ‘relevant’ local NGOs and ‘grassroots organisations’; and ultimately not only represent and speak for victims but ‘produce’ the victim (2010, p. 225).

He uses the terms ‘entrepreneurs’ and ‘experts’ interchangeably, though this thesis argues that it is more useful to unpack this, and disaggregate the body of transitional justice entrepreneurs further, as Selim (2017) has done. The overall category of transitional justice entrepreneurs encompasses the external dimension of transitional justice, capturing relationships at the ‘top’ level of the discourse, that define its normative and institutional dimensions. This external category, of transitional justice entrepreneurs, is not however exclusively international, and this distinction is important. Selim (2017) articulates four categories of transitional justice actors in her analysis of participatory programming of transitional justice in Nepal. She defines the transitional justice expert, the transitional justice broker, the transitional justice implementer and victims’ groups. As her analysis supports the victim-centred approach to transitional justice more broadly, her final category of victims’ groups is of little use within this thesis, as it narrows the lens of transitional justice participants

(discussed below), and resultantly is omitted from incorporation. According to Selim (2017), transitional justice experts are those actors who produce the “discourse and knowledge” (p. 1132) of transitional justice. These actors comprise the international and normative level of transitional justice. Transitional justice brokers “set the transitional justice agenda on the ground” (Selim, 2017, p. 1132) and this thesis defines such actors as the ‘top’ or ‘elite’ tier of national actors involved in constructing, designing and implementing transitional justice processes in individual contexts. These can be, for instance, governments and civil society actors. These actors, while not international, are still external, since at best they represent the needs and views of affected populations that comprise the realm of the local, and at worst, manufacture these to further their particular agendas (a dedicated discussion on the local can be found below). Finally, transitional justice implementers refers to the body of actors who implement a transitional justice process on the ground – within the context of this thesis, this refers to the actors within the TRC in Sierra Leone itself. Transitional justice experts reflect the normative level of transitional justice; transitional justice brokers and implementers embody the institutional level of transitional justice. Together, these actors comprise the body of external transitional justice entrepreneurs.

The second category of transitional justice actors are local transitional justice participants. Broadly speaking, this refers to the local populations directly affected by conflict and whose engagement is needed for transitional justice to achieve its goals. Macdonald (2013) adopts a similar conceptualisation in her treatment of the transitional justice “end-user,” whom she defines as “somebody at the receiving end of transitional justice arrangements” (p. 8). These end-users, according to Macdonald (2013), “can be individuals or collectives” and are “both the actual and potential” individuals within the local (p. 8). On the most localised level, this thesis puts forward that an individual (or group i.e. perpetrators) can be either a simple participant, a (passive) beneficiary or a stakeholder. A simple participant is someone whose participation within transitional justice is considered necessary for it to effectively fulfil its (externally determined) aims. This participation is

often treated as instrumental in character, the nature and purpose of which are designed according to external agendas. Consequently, limited agency or voice is granted to such participants. Yet transitional justice does not only seek participation from affected populations, it strives to impart a benefit on them, at least in theory. Participants for whom transitional justice is designed to impart a benefit can be considered transitional justice beneficiaries, and hold intrinsic value within such processes. According to the dominant victim-focused transitional justice discourse, this would mean that 'innocent victims' belong to the category of transitional justice beneficiaries, while 'guilty perpetrators' are simple participants therein. Yet, the picture remains incomplete, and is indeed more complex, as this thesis argues that one final constituent category of transitional justice participants may exist: that of the transitional justice stakeholder. While transitional justice beneficiaries are privileged in their treatment by transitional justice over that of simple participants, beneficiaries remain the passive recipients of transitional justice, and may still be constrained in the voice and agency that is granted to them within such processes. This reflects "sub-optimal" (Kilroy, 2011, p. 130) models of institutional engagement. This thesis argues that where beneficiaries have formative opportunities to express their needs, they can be transformed into stakeholders, which stands to enhance the overall local legitimacy and sustainability of a transitional justice process and its outcomes, respectively. Stakeholders comprise those participants with the ability to (in)form an institution's design. Thus, where practices of inclusion and ownership are formative, beneficiaries become stakeholders as well, allowing for the cultivation of "communities of practice" (Quick and Feldman, 2011, p. 273) that promote sustainable and self-generating outcomes. All together, the body of local transitional justice participants, comprising simple participants, beneficiaries and (potentially) stakeholders, represents the final dimension of transitional justice: its practical level. However, while disaggregation brings clarity to the fog of relationships that constitute the enterprise of transitional justice, it also highlights the complexity of this web of engagement. These actor labels are not mutually exclusive.

Beneficiaries are also participants, and beneficiaries can become stakeholders.

For the purpose of simplicity, the term transitional justice entrepreneur is used when referring more broadly to transitional justice actors on the normative and institutional levels of transitional justice under examination in this thesis. The term participant(s) refers to the general body of conflict-affected populations with whom transitional justice seeks engagement within the level of the local, unless otherwise clarified.

The Local

This thesis examines the relationship between ex-combatants and the TRC in Sierra Leone along two axes. It critically examines the normative (rhetoric), structural (ritual) and practical (reality) dimensions of transitional justice generally, and of the truth commission in Sierra Leone specifically. Secondly, it advances a micro-level understanding of localised expectations, experiences and impacts of transitional justice, through the lens of the ex-combatant community. This multi-levelled and nuanced analysis of ex-combatants and the TRC contributes conceptually and empirically to the burgeoning sub-field of localised transitional justice assessments. As this thesis is squarely situated within the domain of 'the local', and because this is an inherently diverse realm, it is necessary to define and conceptualise this term.

Broadly speaking, the local encompasses the matrix of domestic processes, people and places that constitute a particular context. As sites of intervention and interaction, the local has become a cornerstone of peacebuilding studies, and more recently has begun to permeate the discourse of transitional justice (and in relation to the field's ownership debate in particular). In reviewing seminal peacebuilding research Hirblinger and Simons (2015) identify three ways in which the local is animated: firstly, "as an attribute to a referent object, such as local actors, populations and institutions"; secondly, the local is treated as "the 'bottom'", "bottom-up" or "on the ground" and

employed as a scale; lastly, the local is defined as spatial and associated with “distinctive places where actors, institutions and practices to peacebuilding are located” (p. 424).

However, despite its centrality, the local lacks an accepted definition (Kochanski, 2018) and is often subject to “unspoken assumptions” (Nyseth Brehm and Golden, 2017, p. 104) around what makes a particular mechanism or process local “without much interrogation of what makes it so” (p. 104). Increasingly, research draws attention to the simplistic presentation of the local against the reality of its complexity, and the power asymmetries that exist between what Kochanski (2018) distinguishes as the “national and subnational levels” (p.27) of the local. Richmond (2009) summarises traditional conceptualisations of the local as the “range of actors and terrains” (p. 341) situated at the elite domestic level with which international actors typically engage in various forms of peace- and state-building. Donais (2009) mirrors this, presenting a broad conceptualisation of the local as ‘domestic actors’ but emphasising that local elites (in the form of the state or national government) have commonly been treated as synonymous with, and exclusively constituting, the local.

Within the local, at the level of ‘elites’ (Richmond, 2009) or the ‘national’ (Kochanski, 2018), national governments are given primacy. According to Donais (2009), national governments of states undergoing transition or reform are “assumed to possess not only the authority but also the legitimacy to engage” (pp. 119-120) in effective and lasting reform and interventions. Yet, the assumption that national governments sufficiently and legitimately represent the local does not accommodate for the reality that the local is in fact composed of many actors with “disparate and at times conflicting agendas” (Kochanski, 2018, p. 39). In particular, the representativeness of governments requires critical examination, as national political elite interests may diverge significantly from larger (subnational) societal needs and lead to the elite capture of processes that treat domestic elites as both necessary and sufficient for meeting the needs of the local. Therefore, while national governments may be the “most obvious local” actors,

“they can also be the most problematic” (Donais, 2009, p. 120). Yet, engagement with these local elites remains necessary, however problematic. Governments “retain considerable capacity to block, circumvent and/or undermine initiatives they oppose or which threaten” (Donais, 2009, pp. 124-125) them. As such, the national level of the local remains a relevant and necessary tier of the local, with local elites playing “a pivotal role in the conduct and governance of” (Kochanski, 2018, p. 38) transitional justice and retaining considerable power in determining the inclusion and exclusion of other segments of the local within transitional justice initiatives.

Beyond the state, another important segment of what Richmond (2009) refers to as local ‘elites’ takes the form of civil society. At its core, civil society functions as a filter and conduit between larger populations and the state and/or international community. These actors and groups represent larger communities and populations, speaking for and about them (Madlingozi, 2010). Donais (2009) calls attention to the fact that civil society is “typically viewed as a kind of collective national owner, and a potentially progressive counterbalance to those holding formal reins of power” (p. 120). Skaar (2018) similarly emphasises the importance of civil society, claiming that TRCs may exert a great impact on society if they engage genuinely with actors such as the media and civil society. However, scholars also warn of the dangers of romanticising civil society as a legitimate representation of the wider local. Pouligny (2005) draws attention to the problematic tendency to homogenise civil society, arguing that this too is a complex landscape of actors, themselves not immune to politicisation and the effects of conflict, and warranting more nuanced examination. Madlingozi (2010) draws attention to the need to question how locally representative civil society is, and indeed can be, of the larger populations it claims to speak for and about. According to him, these actors function more as barriers to direct participation rather than as conduits to individual empowerment (Madlingozi, 2010). His analysis begs the question of how locally legitimate civil society can ever be as a genuine representative of the ‘truly’ local (the larger population of conflict-affected individuals) given the fundamental limitations inherent

to any structure that seeks to collect and reflect the interests of a larger group. Richmond (2009) similarly describes civil society as “artificial” elites that fail to connect or promote “the agency of the vast bulk of post-conflict populations” (p. 325) and remain generally removed from the general populations that constitute what he calls the ‘local-local’.

This thesis, however must remain practical in its critical approach lest it risks abstracting criticisms to the point where they lose all heuristic value. Cornwall (2008) aptly notes that in reality, it is impossible to meaningfully give voice to the totality and diversity of all potential participants and beneficiaries. In order to give voice to the many, we must find a way to filter the noise that otherwise becomes deafening and consequently meaningless. So, while more critical approaches towards civil society that unpack the sincerity of their representativeness is certainly warranted, they remain a crucial conduit and filter for larger participant populations, without which such populations cannot be meaningfully accessed.

The state and civil society belong to the cadre of local actors and groups within the ‘local elite’ space of the local. Yet the local contains “overlapping layers” (Kochanski, 2018, p. 27) that extend across national, subnational and micro-levels. Despite the academic tendency to treat subnational actors “as a unified group” (Kochanski, 2018, p. 38), in reality actors across levels of the local exercise varying degrees of agency. According to Kochanski (2018), transitional justice must consider “local-national power asymmetries...in order to nuance our grasp of how (local) transitional justice processes actually operate on the ground” (p. 38) and recognise diversity among various local actors that have traditionally (and inaccurately) been treated as homogenous.

Donais (2009) distinguishes between the state and non-state actors within the local. In line with this, Goodhand and Sedra (2007) separate regime from the broader (sub)national⁵, defining regime as “formal

⁵ Goodhand and Sedra (2007) use the term ‘national’ to discuss what Kochanski (2018) refers to as subnational and Richmond (2009) refers to as the local-local. To avoid confusion as a result of inconsistent application of terminology across studies, where the same term is used to refer to different

institutions of government” (quoted in Donais, 2009, p. 120) and the (sub)national as the “much broader, societal-wide” realm of citizens (quoted in Donais, 2009, p. 120). According to Kochanski (2018), the subnational domain of the local comprises “all segments of local populations” (p. 27), and not merely the body of “local elites” (p. 38) to which engagement with the local has historically been restricted. In a similar vein, Macdonald (2013) removes the state or national component from her treatment of the local altogether. Instead, she animates the local as the “sub-state, the community and the individual” (Macdonald, 2013, p. 58). In arguing for an expanded local lens through which to assess transitional justice measures, Nyseth Brehm and Golden (2017) advocate for a broad survivor-centred definition of the local in transitional justice. According to Nyseth Brehm and Golden (2017) survivors (and therefore the local in the context of transitional justice) constitute “all individuals touched by violence” (p. 106) – everyone who experiences and perpetrates harms. This micro-level survivor lens of the local recognises that “communities of survivors are not politically and ideologically homogenous or monolithic” (Nyseth Brehm and Golden, 2017, p. 111). Richmond (2009) distinguishes the local from what he calls the ‘local-local’, whereby the former is “commonly deployed to depict a homogenous and disorderly Other” (p. 325) and restricted to local elites. The “disaggregated variety” of the “subaltern” (otherwise referred to as ‘general populations’, ‘local recipients’ or ‘ordinary people’) (Richmond, 2009, p. 331) remain invisible within this traditional conceptualisation of the local. Richmond (2009) employs the term ‘local-local’ ‘to indicate the existence and diversity of communities and individuals that constitute political society beyond’ the artifice of the local (elites) as outlined above.

This thesis adopts and extends conceptualisations of the local and the local-local put forward by Nyseth Brehm and Golden (2017) and Richmond (2009), in its treatment of ex-combatants as the focal point of a localised analysis of the TRC in Sierra Leone. While Shaw,

levels of the local, I have added (sub) when referring to Goodhand and Sedra’s work.

Waldorf and Hazan (2010) take a “place-based approach” (p. 282) to conceptualising the local, this thesis takes a ‘people-based approach’. It examines transitional justice in relation to the very people it professes to save, punish or forgive. In line with Nyseth Brehm and Golden (2017), the local is understood as “based in perspective rather than place (albeit a place-based perspective)” (p. 105). This thesis treats the local as an individualised lens, which while never fully detached from ‘place’, nonetheless recognises that “a sense of place need not be self-closing but rather can be outward looking” (Nyseth Brehm and Golden, 2017, p. 105).

As outlined above, Nyseth Brehm and Golden (2017) reconceptualise the local towards an inclusive standard that encompasses “affected people” (p. 106) which they refer to as survivors. Within transitional justice, they argue that a particular process is local to the extent that survivors exercise agency and power throughout the process and their experiences and outcomes are prioritised. They reject the traditional victim orientation of transitional justice on the grounds that designations of victim and perpetrator are artificial and that a victim-centred orientation of the local limits recognition of the breadth of this domain (Nyseth Brehm and Golden, 2017). Richmond (2009) similarly problematises conventional understandings of the local, which he depicts as limited to “often predatory elites” and “a ‘civil society’ that effectively floats far above the ordinary individual and the ‘local’ where everyday life occurs” (p. 325). Richmond (2009) presents the ‘local-local’ as the “local beyond the artifice of civil society” (p. 331), that requires “engagement with the lives of ordinary people, in their own everyday rather than in a static and distant state context” (p. 333).

Work by Richmond (2009) and Nyseth Brehm and Golden (2017) extend conventional definitions of the local to accommodate diversity on the micro-level among affected populations, and foreground the need to assess the merits of transitional justice through the experiences of what they denote as survivors or the local-local, relatively.

This thesis expands the lens of the local to the category of ex-combatants, defined as perpetrators by the TRC itself, as a particular segment of the 'survivor' population within the individualised lens of the local presented by Nyseth Brehm and Golden (2017). This thesis's focus on the ex-combatant perpetrator population in relation to the TRC in Sierra Leone also aligns with Richmond's (2009) conceptualisation of the local-local as one element of the broader population of citizens and identified local TRC recipients in Sierra Leone.

In seeking to understand the expectations, experiences and impacts of the TRC in relation the local(-local) survivor population of ex-combatants, this thesis also responds to calls for "more localised" (Richmond, 2009, p. 327) scholarship "assessing survivors' experiences with transitional justice mechanisms" (Nyseth Brehm and Golden, 2017, p. 113) and centralising the 'end-user' (Macdonald, 2013) within transitional justice assessments. Research highlighting the importance of local examinations of transitional justice has begun to address micro-level variation from both agency (how individuals affect these processes) and structural (how these processes impact individuals) perspectives. Work by Skaar and Wiebelhaus-Brahm (2013) and Sriram (2013), highlight the role of local agency in determining the path of transitional justice implementation. Such research highlights the role played by local 'drivers' and 'spoilers' of justice in the construction and implementation of these processes. The need to disaggregate the impact of transitional justice processes on local individuals is also growing. Acknowledgement of micro-level variation in the experiences of transitional justice, across the local has gained currency in, for instance, studies by Nussio et al. (2015), Aguilar et al. (2011), Samii (2013) and Millar (2011). Richmond (2009) refers to this approach, of locally contextualising peacebuilding assessments through the expectations and experiences of the "hidden but widespread local-local" (p. 337), as "eirenism" (p. 329). In taking such an eirenistic approach, and disaggregating the 'survivor' lens of the local developed by Nyseth Brehm and Golden (2017) onto the individualised local-local level of the ex-combatant (perpetrator)

identity, in Sierra Leone, this thesis advances conceptually and empirically the “particularly important” (Nyseth Brehm and Golden, 2017, p. 113) and emerging body of localised transitional justice scholarship. However, while the relationship of interest for this thesis is between non-participant ex-combatants and the TRC in Sierra Leone, this research recognises that this relationship is nested within the larger social system that comprises the particular institution of the TRC. As such, it also engages with the wider domain of the local, as the myriad set of actors and levels that must be considered in order to generate a nuanced and comprehensive understanding of the personal and localised experiences of, but also structural and normative relationships between, ex-combatants and the TRC.

In uncovering and analysing the localised TRC experiences of non-participant ex-combatants, this study’s approach to the local challenges the black and white discourse of identity production within transitional justice and thereby confronts the “moral grey zone” (Shaw, 2010, p. 114) of transitional justice on the ground. By disaggregating the local onto the level of the conflict-affected individual, this study presents an empirically fine-grained contribution to localised transitional justice scholarship. The findings of this thesis add depth to the growing field of normatively critical and locally-oriented transitional justice studies. This chapter has presented the research puzzle of this thesis, and introduced the approach adopted to shed empirical light on the relationship between ex-combatants and the TRC in Sierra Leone. It has defined the central concepts of this research and contextualised the contributions of its work within the broader field of transitional justice. Chapter 2 of this thesis elaborates the research design and methodological choices adopted to rigorously investigate, describe and understand its research puzzle of the relationship between ex-combatants and the TRC. Chapter 3 ends Part One of this thesis by providing a literature review of the field of transitional justice, with a particular focus on the history and evolution of truth commissions, and presenting a historical overview of the conflict and post-conflict landscape in Sierra Leone.

Chapter 2

Research Design and Methods

This thesis presents the first in-depth and empirically grounded examination of perpetrator experiences of post-conflict truth commissions and seeks to explore and understand this. The research design for this investigation uses qualitative methods to achieve a comprehensive exploration of ex-combatants and the TRC in Sierra Leone. This thesis is retrospective in character, and generates grounded theory around its population and relationship of interest using an abductive approach to analysis.

Thick description and understanding for this research on the relationship between ex-combatants and the TRC is achieved through illuminating and analysing the normative participation model within transitional justice (the level of transitional justice rhetoric), the institutional model of TRC participation in Sierra Leone (the ritual level of transitional justice), and most significantly, ex-combatant experiences of the Commission, using the justice needs and expectations, TRC experiences and ultimately impacts that these actors attach to this institution (the level of transitional justice reality). This thesis advances a detailed, comprehensive and localised examination of the relationship between the TRC and non-participant ex-combatants in Sierra Leone. Qualitative methods are appropriate for this research as they are particularly useful for in-depth exploration and description (Blaikie, 2010). The 'insider' orientation of qualitative data collection methods (Blaikie, 2010) makes this approach well-suited to examining the reasons of outcomes (causes-of-effects) (Bennett and Elman, 2006). The flexible and reflexive character of qualitative research methods is also advantageous for this thesis's exploratory and bottom-up approach.

This chapter proceeds by briefly reiterating the case selection criteria adopted by this thesis, elaborated in the first instance in Chapter 1. It then details the research design choices of adopting abductive,

qualitative and retrospective strategies as uniquely appropriate for the research puzzle that this thesis treats. A discussion on time and recall bias highlights inevitable challenges that any research design faces, and the steps taken to acknowledge and mitigate this. The rationale behind the single-case case study design for this thesis is then presented and the analytical tools of process tracing and discourse analysis used in this research are presented. A detailed discussion of the data types and sources used by this thesis, a combination of primary and secondary data types, and the sampling strategies employed is thereafter provided. Finally, a discussion on researcher positionality and a word on knowledge production, based on the long-term fieldwork conducted for this thesis is presented.

Case Selection

The case study for this thesis, the TRC in Sierra Leone, has been selected by applying Hayner's 2011 definition of truth commissions, and by restricting possible cases to post-conflict truth commissions established in Africa after 1995, which have completed their operations. Case selection was drawn from Africa due to the prevalence of both civil war, and truth commissions, in this region. A temporal restriction is also necessary to limit the number of possible cases and increase the feasibility of conducting interviews. As highlighted in Chapter 1, case selection was additionally temporally restricted to post-conflict truth commissions established after 1995, the year that South Africa's famous Truth and Reconciliation was established, due to the formative impact that this particular truth commission has had on the scholarship and practice of these bodies (Freeman, 2006; Hayner, 2006; Millar, 2011; Skaar, 2018). In line with Hayner's definition (2011), only truth commissions that have completed their operations were considered as possible cases. This retrospective orientation also circumvents ethical challenges that could otherwise be posed if these processes were ongoing. Additionally, constructing the complete narrative of perpetrator truth commission experiences is only possible if such processes have been completed. A single case and within-case case study approach has been adopted

due to the exploratory nature of this research, in order to cultivate an in-depth understanding of the relationship under investigation.

Research Design

This thesis utilises an abductive research strategy and qualitative data and analysis, to explore, describe and understand perpetrator experiences of truth commissions. I adopt a retrospective temporal approach to data collection, and an in-depth single case study model for depth of exploration within a single, illustrative case: Sierra Leone. The main source of data for this thesis are primary data collected through semi-structured interviews in the field, using snowball sampling to gain access to respondents from all targeted population categories.

The abductive approach is uniquely appropriate for description and exploration in social inquiry (Blaikie, 2010), and is therefore well-suited to achieve these purposes within this thesis. The abductive approach consists of producing new knowledge through “assembling or discovering, on the basis of an interpretation of collected data, such combinations of features for which there is no appropriate explanation or rule” (Reichertz, 2010, p. 6). It is a “cognitive logic of discovery” (Reichertz, 2010, p. 7) that makes sense of “surprising facts” (p. 9) through the iterative and reflexive process of “meaning-creating rules” (p. 9) that this thesis undertakes through a grounded theory approach. Exploration and description are achieved by placing ex-combatants at the heart of this process, in line with the localised approach adopted throughout this study. Abductive research constructs description from the bottom up, by using the meanings, interpretations, motives and intentions of social actors (Blaikie, 2010), which is appropriate for this thesis. Narrative empirical data are used to construct the experiences of non-participant ex-combatants in relation to Sierra Leone’s TRC, and thus is necessarily driven by the need to access, discover and understand the landscape of social meaning and values that inform and surround this relationship, as held by individual ex-combatants. Abduction is also suited for addressing ‘why’ questions and generating new knowledge through understanding. The abductive strategy

adopted by this thesis is situated within a grounded theory approach which iteratively develops categories of reasons surrounding expectations, experiences and impacts through a textured understanding of ex-combatant narrative experiences of the TRC as well as the commission's institutional engagement with this population. This approach is well-aligned to the localised design of this thesis.

This thesis employs qualitative research tools to develop a comprehensive understanding of the relationship between perpetrators and the TRC in Sierra Leone. This design relies on constructing narratives of this relationship, along the dimensions of expectations, experiences and impacts, using a 'bottom-up' approach where primary narrative data from qualitative interviews has been used for the purposes of exploration and thick description. This thesis adopts a bottom-up orientation to knowledge production, and aims to advance an understanding of the research puzzle through the collection and analysis of personal respondent narratives. This bottom-up orientation is uniquely appropriate, as this thesis contributes to the burgeoning sub-field of micro-level transitional justice that seeks to localise investigations and assessments of such processes, within and against the lens of affected populations.

Time and recall bias

The truth commission in Sierra completed its operations in 2004. A retrospective approach, which is temporally backward-looking and used to study recent history, is therefore required. The backward-looking orientation of this approach, in combination with this study's use of oral histories, is limited by the fallible nature of memory. It must therefore be acknowledged that the constructed narratives will always be "a possible reconstruction of the past under the influence of subsequent experiences" (Blaikie, 2010, p.203).

A key challenge in retrospective research is recall bias - the impact of subsequent experiences, and indeed time more generally, on recollections of the past. The power of associations and theoretical categories is therefore limited, as it is not possible to completely remove the degree to which subsequent experiences of the TRC (and

larger post-conflict environment) have impacted contemporary recollections of ex-combatant expectations towards it, gathered through qualitative interviews. The retrospective data gathered in this study is therefore introspective in character – accounts of the TRC and the meanings attached thereto have necessarily been filtered through subsequent respondent experiences and their present conditions. (Scott and Alwin, 1998).

Three steps have been taken in an effort to mitigate this recall bias. Firstly, interview guides have been carefully constructed to probe ex-combatant understandings of the TRC, and to separate their expectations of the TRC from their subsequent (non-participation) experiences and impacts associated with it. Secondly, where possible multiple interviews with ex-combatants were conducted, as a validity check to observe changes in the narratives provided. Where iterative interviews were possible interview questions were slightly reframed to capture any misalignments in responses. Overwhelmingly, consistent narratives indicate some success in mitigating the inevitable limitations posed by recall bias. Lastly, the high saturation point of conducting 112 ex-combatant interviews has helped to mitigate validity errors that may be introduced by recall bias limitations.

In addition to taking steps to mitigate recall bias from retrospective respondent interviews, TRC archival materials and official documentation was accessed and analysed to enhance the scope of this research. These materials are sources of primary data that are unaffected by recall bias, having been collected and produced during the lifespan of the TRC.

The retrospective approach adopted by this thesis also has several advantages. It has allowed this research to generate a comprehensive account of perpetrator experiences without the high costs that accompany longitudinal studies, and to investigate truth commission experiences in their entirety, in particular including the dimensions of experiences and impacts. This increases the persuasiveness of process tracing analysis (Bennett and Elman, 2006). Furthermore, the unpredictable lifespan of truth commissions, which generally operate

for several years, often extending beyond their original mandates, makes it difficult to plan longitudinal studies that investigate truth commissions. Additionally, establishing a truth commission does not guarantee its successful completion, and several commissions have been disbanded without completion or have operated under controversial conditions (as in the Democratic Republic of Congo (DRC) and Kenya). It is also doubtful that this research would be ethically feasible in the context of an ongoing truth commission. However, in a retrospective context, there is no risk that interviewing perpetrators will impact their participation behaviour. Finally, the completion of transitional justice processes in Sierra Leone significantly decreases perpetrator security concerns, which eliminates ethical and practical constraints that may otherwise impede access.

Case Study Design

This thesis employs a single-case (within-case) case study design to examine perpetrator experiences of the truth commission in Sierra Leone. Case studies enjoy an advantage in approaching causation through understanding (Bennett and Elman, 2006). The use of a single-case study design allows depth of exploration and description, which is necessary to illuminate the complexity of the relationship between the TRC and the ex-combatant population in Sierra Leone.

Using a single-case case study approach is necessary to generate an in-depth exploration of the relationship between the TRC and ex-combatants in Sierra Leone. The single-case approach this thesis adopts is both revelatory and embedded. It is revelatory because it examines the unexplored relationship between perpetrators and truth commissions, using the illustrative case study of Sierra Leone. Embedded case studies involve conducting research at different levels within a given case while still treating the case as a single-case case study (Blaikie, 2010). The concept of 'levels' inherent to embedded case studies is applied along two dimensions within this thesis: people and places. In line with the previously established definition of the local (in Chapter 1), this thesis adopts a people-based approach to conceptualising the domain of the local within Sierra Leone. Various

domestic actors together constitute the tapestry of levels that together comprise the local. Interviews with ex-combatants, TRC officials (transitional justice implementers), and civil society actors (transitional justice brokers) in Sierra Leone have been conducted as part of this. Additionally, this has been augmented by conducting research throughout Sierra Leone, acknowledging the geographic dimension of levels within embedded case studies. Interviews have been conducted across Sierra Leone, concentrating in its three regional capitals, of Freetown (Western Area – capital of Sierra Leone), Bo (Southern Sierra Leone) and Makeni (Northern Sierra Leone) and their surrounding rural areas.

Process tracing is a key form of within-case case study analysis (Bennett and Elman, 2006). It connects causes with outcomes by identifying the causal chain and mechanism(s) that can offer explanation or understanding (George and Bennett, 2005). It is an indispensable tool for theory development, and particularly appropriate for investigating social phenomena that incorporate a temporal dimension (George & Bennett, 2005). In identifying causation, process tracing focuses on the process and not the outcome, and therefore does not rely on covariance (Bennett and Checkel, 2014; George and Bennett, 2005). Process tracing uncovers causality by discovering the 'causes-of-effects' (Bennett and Checkel, 2014; George and Bennett, 2005). I employ inductive process tracing, as part of theory development, using "evidence from within a case to develop hypotheses that might explain the case" (Bennett and Checkel, 2014, p.8). A combination of the detailed narrative and analytical explanation variants of process tracing are employed (George and Bennett, 2005). Establishing a detailed narrative of perpetrator experiences of truth commissions involves constructing a highly detailed historical account of these experiences, without the explicit use of theory. This is later transformed into an analytical causal explanation (George and Bennett, 2005).

Discourse Analysis

Discourse analysis has been particularly critical in identifying the formal incorporation and treatment of ex-combatants within the TRC (see Chapters 5 and 6) through the analysis of secondary data, and in supplementing the narrative histories provided through ex-combatant interviews, which lends empirical validity to primary data findings in subsequent participation and impacts chapters.

Discourse analysis, as the study of “language-in-use” (Gee, 2011, p. ix) provides many tools with which to understand and explain the world through language. This thesis utilises the tools of ‘identities building’ and ‘situated meaning’ (also known as utterance-token meaning) (Gee, 2011) to explore and analyse perpetrator treatment vis-à-vis Sierra Leone’s TRC. Identities building involves analysing text to uncover contained identities and the positionality thereof. This thesis, with its focus on understanding the truth commission experiences of perpetrators, identifies the role of this group within the TRC, making this tool invaluable in its analytic ambitions. Secondly, this thesis relies on situated meaning, which tells us what words mean in particular contexts, to construct the relationship between perpetrators and the truth commission specifically. The situated meaning of perpetrators as actors in truth commissions allows for the development of an analytically constructed framework about their role and importance as truth commission participants. It adds necessary depth to this investigation. By uncovering the situated meaning of perpetrator experiences within the truth commission’s design this study further examines and assesses the relative treatment of these experiences, along its institutional axis of investigation. This follows the critical discourse analysis approach wherein situated meanings are associated with social practices (Gee, 2011b), in this case the practice of perpetrator (non)participation in post-conflict truth commissions. Furthermore, according to van Dijk (2008), examinations of inequality lie at the heart of critical discourse analysis. This study’s exploration of the relative treatment of perpetrators in truth commissions highlights their necessary but neglected position, and reveals inequalities in the

design of local engagement in truth commissions. The relative treatment of conflict experiences in truth commissions is integral to understanding the treatment of perpetrators in this study, making critical discourse analysis an inherent part of this investigation. This thesis employs discourse analysis to develop a framework for institutional engagement in the TRC, to establish the role and relevance accorded to this population on the institutional level, and to supplement primary narrative data through the analysis of TRC statements. The following section details the data types, sources and sampling techniques employed for this research.

Data Types, Sources and Sampling

This thesis uses multiple data types and sources to develop a multi-dimensional understanding of the relationship between ex-combatants and the TRC in Sierra Leone. It relies predominantly on primary data, in the form of interviews with several populations. The main population of interest is the ex-combatant community in Sierra Leone, and this comprises the bulk of interviews undertaken (112 of 147 interviews). Interviews with members of civil society and TRC officials have also been undertaken (32 interviews), to shed empirical light on the institutional realities of the TRC and its relationship with the ex-combatant community. Secondary data, in the form of official truth commission documentation, is additionally used to illuminate the institutional design and operations of the TRC, and to supplement primary interview data from the ex-combatant population. The TRC Statement archives and the TRC's mandate and Final Report documents have been examined for these purposes.

Primary Data

The empirical data gathered for this thesis comprises predominantly primary narrative data that has been collected through semi-structured informal interviews from different segments of the local across Sierra Leone. Primary data, in the form of in-depth interviews, has been collected in order to construct a comprehensive understanding of this relationship.

A total of 147 interviews were conducted for this thesis and constitute the primary data used for analysis. Populations sampled were ex-combatants from a cross-section of different warring factions; members of civil society, involved in the advocacy, establishment and operations of the TRC; and TRC officials. Fieldwork and data collection began in November 2016, and lasted for just over two years, ending in January 2019. Ten interviews were conducted in 2016, 55 in 2017 and 82 in 2018 and the beginning of 2019. The average interview length varied between 45 to 55 minutes, with some interviews lasting over 90 minutes. An additional 7 ex-combatant interviews were also held, but due to their short length (a maximum of 10 minutes) have been omitted from the analysis. Twenty-one members of civil society were interviewed, 11 TRC officials, 112 ex-combatants, and 3 additional individuals, who self-identified as victims of the war.

Sampled populations	
Civil Society Actors (TRC Brokers)	21
TRC Officials (TRC Implementers)	11
Ex-Combatants	112
Victims	3
Total	147

Below are the factional and regional distributions of the interview data.

Regional Distribution	
Freetown	68
Bo	42
Makeni	37
Total	147

The overrepresentation of interviews in Freetown is largely due to the concentration of civil society and TRC officials there. The following sections disaggregate the primary data collection strategy of this thesis, according to the populations targeted in order to construct a

comprehensive understanding of the relationship between ex-combatants and the TRC in Sierra Leone.

Ex-Combatants

The primary population of interest for this thesis is the low to mid-level ex-combatant community, that did not directly participate in the TRC in Sierra Leone. This is reflected in the high number of ex-combatant interviews conducted throughout the course of this study (112). Below are the factional and regional distributions of the ex-combatant population sampled for this thesis, which include ex-combatants from across the main domestic groups that participated in the civil war in Sierra Leone, and drawn from across the country's three regional capitals of Freetown, Bo and Makeni. A description of each of these warring factions can be found in Chapter 3's historical overview of the conflict in Sierra Leone.

Ex-Combatant Distribution	
(ex)military (SLA or RSLAF) ⁶	32
RUF	46
CDF/Kamajor	31
Other	3
Total	112

Regional Ex-Combatant Distribution				
	(ex)Military (SLA)	RUF	CDF/Kamajors	Other
Freetown	15	19	5	0
Bo	8	5	26	2
Makeni	9	22	0	1
Total	32	46	31	3

⁶ As Chapter 3 points out, the armed forces of Sierra Leone (its military) has undergone a name change since the civil war, from the Sierra Leone Army (SLA) to the Republic of Sierra Leone's Armed Forces (RSLAF). Throughout this thesis, (ex) military combatants are referred to as members of the SLA.

Thirty-six out of 112 interviewed ex-combatants reported being under the age of 18 at the time they joined an armed group. Overwhelmingly, under-age ex-combatants reported being forcibly conscripted into the war, (28 of 36), and the majority of under-aged ex-combatants were part of the RUF (27 of 36). The youngest ex-combatant respondent was eight years old when he was abducted and forced to join the RUF, and was only 23 years old at the time of being interviewed for this research. Of the eight under-aged ex-combatants that joined the war voluntarily, all were between the ages of 15 and 17. Five of eight voluntarily joined the Kamajor and CDF movement, two joined the RUF, and one joined the Army (SLA). Generally, former Kamajor members were older at the time of joining than respondents who participated with the RUF and military forces. Kamajor ex-combatants also reported the highest levels of voluntary armed group membership, with 28 of 31 reporting to have joined voluntarily. Former RUF members reported the highest level of forced recruitment. Out of 31 Kamajor interviews, 20 identify as both Kamajor and CDF. Forty-one interviewed ex-combatants participated in the Disarmament, Demobilisation and Reintegration (DDR) process in Sierra Leone (described in Chapter 3). Important to note is that no (ex)military (SLA) respondents participated in DDR. Out of the 41 RUF and CDF ex-combatants that participated in DDR, 25 were former RUF and 16 were CDF.

Sampling Techniques: Accessing Ex-Combatants

Using probability sampling methods to identify an appropriate sample of the ex-combatant population, in order to build descriptive and categorical statements about them, is clearly not possible. Comprehensive data on this population simply do not exist. This is unsurprising, given the obvious difficulties this would entail. This expectation has been amply evidenced throughout the course of over two years of fieldwork in Sierra Leone. Non-probability snowball sampling is best suited for research that addresses a population that is difficult to identify (Blaikie, 2010). Since the perpetrator population

clearly falls within these parameters, utilising snowball sampling is the necessary, most appropriate, and indeed the only viable sampling method suited for this study. Accessing this population was achieved through a diverse network of gatekeepers that I cultivated over the course of extended fieldwork in Sierra Leone (a further discussion on access and gatekeepers can be found below). The strength of social networks observed throughout Sierra Leone throughout the course of this research greatly facilitated purposive snowball sampling among this population.

At the micro-level, non-participant ex-combatant expectations, experiences and impacts of the TRC are empirically investigated within this thesis. Primary narrative data has focused on engagement with the ex-combatant population in Sierra Leone that did not directly participate within the TRC, as this population forms the object of investigation for this larger thesis.

Chapter 1 has presented the definition of ex-combatants used within this thesis. For the purpose of illuminating the ex-combatant sampling strategy and criteria employed throughout the research process, it is useful to summarise this once more. Within this thesis, perpetrators are understood to be all individuals who committed crimes during Sierra Leone's civil war, as per the definition put forward by the TRC itself. Importantly, this refers predominantly, although not necessarily exclusively, to the ex-combatant population, and includes all warring factions active during the war. While not all perpetrators are therefore ex-combatants, according to the TRC's definition of perpetrators, all ex-combatants are perpetrators. The population of primary interest for this thesis is the low to mid-level ex-combatant population in Sierra Leone.

This thesis relies exclusively on primary respondent data collected from ex-combatants who did not participate directly in Sierra Leone's TRC. This lends robustness to a discussion on non-participation and exclusion between the Commission and this population, but does not allow for comparison between participant and non-participant groups, which could be considered a methodological shortcoming. However,

to mitigate this, TRC archival analysis has been conducted, on a random sample of TRC perpetrator statements, publicly available in the TRC Archives in Freetown, Sierra Leone. The use of this secondary data source is further elaborated below.

Ex-combatant sampling criteria

In accessing the ex-combatant population of interest for gathering primary narrative data for this thesis, eight sampling criteria were used (and amended, as necessary, throughout the course of this study, to ensure the feasibility of generating an appropriate sample): ex-combatant status, rank, warring group affiliation, nature of entry into an armed group, duration of armed group participation, age, TRC non-participation, and lastly, (non)participation in DDR.

Ex-combatant status: Due to the obvious difficulties in identifying and accessing non-combatant perpetrators, the sample of perpetrators for this thesis is restricted to the ex-combatant perpetrator population.

Rank: Within the ex-combatant population, sampling has been confined to low and mid-level ex-combatants, as this forms the largest segment of this population, which did not face the prospect of SCSL indictment. This criterion and larger orientation has allowed for the gathering of empirics among a large, relevant and neglected population of identified local transitional justice participants (see Chapter 1) in the transitional justice discourse and within the transitional justice participant framework defined by the TRC in Sierra Leone specifically.

Warring Group Affiliation: This research is cross-sectional, and has aimed to capture variance in ex-combatant experiences. To this end, interviews were conducted with ex-combatants from all warring factions active during the civil war in Sierra Leone. As highlighted above, 112 ex-combatants were interviewed, over the course of a little more than two years of fieldwork. Thirty-two (ex)members of the SLA (the Sierra Leone Army), 46 members of the RUF, 31 members of the Kamajors and CDF, and 3 members of independent 'vigilante' fighting

groups comprise the total population of sampled ex-combatants for the purposes of primary data collection within this study.

Nature of Entry into Armed Groups: Originally, the intention was to restrict sampling to only include ex-combatants who voluntarily joined an armed group. The ambition to originally avoid including conscripted or forcibly recruited ex-combatants was undertaken to add to the homogeneity of the sample, to learn the most about this population who could be considered as most 'responsible' for their own participation, through its voluntary nature. However, recognition of the reality of the complexity of wartime participation warranted withdrawing this restriction in the early stages of fieldwork. The majority of interviewed ex-combatants express not having "any choice but to fight"⁷, and describe the experience of becoming ex-combatants as forcibly caused by either people or circumstance. The amended sampling criterion therefore includes ex-combatants who were both forcibly conscripted and who joined the fighting voluntarily. This has been a particularly enriching adaption to this thesis's original research design, as it has enabled an expanded understanding around the language of participation among ex-combatants, and the particular significance of motivations in the narrative histories provided throughout the course of this study.

Duration of participation: A minimum duration of armed group participation of six months was set for this research. The logic underlying this criterion is that longer duration of armed group participation increases the likelihood of individual respondent participation in 'active' conflict (i.e. in committing abuses). In reality, all ex-combatants interviewed participated as active combatants for at least 12 months, and the majority were active combatants for longer.

Age: The original sampling strategy for this thesis was restricted to respondents who were adults (18 years or older) at the time of joining the war, to avoid the population of child soldiers. This choice was made because the population of child soldiers is recognised as having a

⁷ RUF ex-combatant interview, Makeni, February 28, 2017

special status in the discourse of transitional justice, as a category of 'victim perpetrators'. However, given the exploratory character of my research and therefore the lack of empirics surrounding the relationship between TRCs and ex-combatants, this decision was amended in 2017, to no longer restrict sampling to a particular age group, and no longer actively avoid this sub-set of the ex-combatant population. Expanding the age criterion of this sampling strategy significantly increased the sample size of ex-combatants for this research. This is largely attributable to two factors: the pervasive use of child soldiers within the civil war, and the low life expectancy of adults in Sierra Leone. Together, this means that a large portion of the ex-combatant population in Sierra Leone today is composed of former child soldiers. The majority of interviewed ex-combatants (76 of 112 ex-combatants) were nonetheless over the age of 18 at the time of joining an armed group.

TRC non-participation: Arguably the most significant sampling criterion for this thesis has been that of TRC non-participation among ex-combatants. Primary data from the ex-combatant population is therefore exclusively drawn from a sample of this population who did not participate within the TRC in Sierra Leone. This has significant implications for this research. Firstly, it is uniquely informative of the lack of ex-combatant participation within the TRC in Sierra Leone, whereby questions of inclusion, experiences and impacts are examined through the lens of multiple processes and sources of exclusion, throughout Part Three of this thesis. This expands the scope of findings and analysis, to the important issue of non-participation and participation deterrence, which form the locus of analysis in Chapters 8 and 9. As highlighted in Chapter 1, this advances an empirical critique towards the broader claim within truth commission studies on the cascading effects of this mechanism of transitional justice, which are claimed to exert an impact on populations and contexts beyond their direct participants (as highlighted in the analysis presented in Chapter 11 on TRC impact in relation to the population of non-participant ex-combatants in Sierra Leone). Secondly, used in isolation, reliance on this primary data restricts the generalisability of

findings around the relationship between the TRC and the ex-combatant population, which then cannot speak to, or on behalf of, nor represent the expectations, experiences or impacts of the Commission on ex-combatants who did participate within it. The use of secondary data, in particular the random sampling of perpetrator statements provided to the TRC, addresses this to a degree, and allows for some comparison and generalisability towards the larger ex-combatant population in Sierra Leone, across the dimension of TRC participation and non-participation. This is addressed in the subsequent section of secondary data within this chapter. Thus, while the generalisability of findings remains restricted, the knowledge produced within these limitations nonetheless contributes significantly to glaring empirical gaps in current truth commission and transitional justice scholarship that require illumination.

DDR participation: the sample of ex-combatants for this thesis comprise both individuals who did, and those who did not, participate within the DDR programme in Sierra Leone. Forty-one out of 112 interviewed ex-combatants report participating in the DDR programme in Sierra Leone, and 71 report they did not participate. Important to note is that no members of the military (SLA) report participating in the DDR programme in Sierra Leone. When controlling for this sub-set of sampled ex-combatants, the figure then dramatically changes, with 41 out of 80 (exclusively non-SLA ex-combatants), participating to some degree within the DDR programme in Sierra Leone, or 51.3%. Among the 41 ex-combatant respondents that did participate within DDR, 37 state they either did not (17), or only partially (20), received the reintegration assistance promised within the auspices of this programme. Verification of participation within DDR was not requested from ex-combatants who reported to have participated (through provision of their DDR identification cards), though several (25) chose to show their DDR cards without prompting.

Unintentional sampling restrictions

While the above outlined active sampling criteria were used for primary data collection through interviews with ex-combatants in Sierra Leone,

one unintended sampling restriction has emerged throughout the course of fieldwork and data collection for this thesis that merits elaboration: gender. This thesis did not adopt a gender requirement as part of its sampling requirements. Nonetheless, all ex-combatants interviewed have been male. This has introduced an unintended gender restriction within the overall research design.

Transitional Justice Entrepreneurs in Sierra Leone's TRC

While primary data collection for this thesis engaged heavily with the population of ex-combatants in Sierra Leone, and accounts for 112 of 147 respondents interviewed, this is not the only population from which primary data, in the form of semi-structured interviews, were collected. To develop a multi-level and comprehensive understanding of the relationship between the TRC and ex-combatant population in Sierra Leone, this thesis undertook both an institutional and micro-level analysis of this relationship, investigating both the institutional treatment of ex-combatants in the TRC, and their own experiences of this mechanism of transitional justice. In order to pursue the institutional axis of this research, interviews with actors belonging to the body of transitional justice entrepreneurs (defined in Chapter 1) were also conducted. Twenty-one members of civil society who directly engaged with the process of establishing and/or the operations of the TRC, as part of the TRC Working Group, were interviewed. This population comprises a sample of the population of TRC brokers in Sierra Leone. Eleven TRC officials were also interviewed, to sample the population of TRC implementers. The following discussion details the sampling strategy employed to identify and access these populations, from which narrative data has contributed to the construction of the institutional axis of the relationship between the TRC and ex-combatants in Sierra Leone.

TRC Brokers (civil society)

Primary data collection for this research began with a one-month scoping visit to Sierra Leone that focused on accessing and interviewing transitional justice brokers involved with the TRC. As defined in Chapter 1, transitional justice brokers comprise an element

of the larger body of transitional justice entrepreneurs that function as a conduit between wider local populations whose interests and needs they assert to represent, and the transitional justice landscape of a given domestic context. They are civil society actors who are recognised to play an important role in calling for, and facilitating the implementation of, truth commissions in particular, within transitional justice scholarship (Skaar, 2018). As Chapter 8 demonstrates, within Sierra Leone, civil society played an instrumental role as transitional justice brokers, calling for the establishment of a TRC during peace negotiations, and throughout the Commission's work, through the formation of the TRC Working Group. The choice to begin data collection with this particular population was underpinned by the following motivations: ease of access, and cultural acclimatisation. Prior to beginning this doctoral investigation, I had no antecedent history of travelling to, or conducting research on, Sierra Leone. As such, the ability to identify, contact and organise meetings with members of civil society remotely, and prior to my first fieldwork visit to Sierra Leone was attractive, for obvious reasons. Civil society contacts provided by a colleague, Simeon Koroma, who himself co-founded the oldest and largest legal aid non-profit organisation in Sierra Leone, facilitated such contact immensely as well. Additionally, during this first field visit to Sierra Leone, I participated in a peace research conference held in Freetown, widely attended by local scholars, policy makers and civil society representations, which further afforded an opportunity to establish contacts, and subsequently interviews, with transitional justice brokers there. Secondly, I also felt ethically compelled to approach the primary data collection of this study, interviewing ex-combatants, cautiously and with consideration. The combination of my primary population of interest (ex-combatants) being a vulnerable one, having no prior research or travel experience in Sierra Leone, and significantly also no prior primary data collection experience led to the decision to begin data collection among the population of transitional justice entrepreneurs in Sierra Leone. As a result, I ultimately felt more adequately informed and ethically prepared to conduct the remaining bulk of my ex-combatant interviews, with the requisite sensitivity that

primary data collection through in-depth interviews demands. Over the course of what was ultimately more than two years of fieldwork and data collection, accruing some basic local language skills has also been a significant advantage in both collecting and understanding the narrative experiences gathered through this research.

Furthermore, this decision to begin data collection with the population of transitional justice brokers in Sierra Leone was particularly beneficial as it led to cross-sectional snowballing, by facilitating access to TRC officials (transitional justice implementers) and ex-combatants within Sierra Leone through contacts provided by interviewed TRC brokers.

Transitional Justice Implementers (TRC Officials)

An important component of understanding the TRC's engagement with the perpetrator population involved interviewing individuals who worked for the TRC directly. These TRC officials comprise the body of transitional justice implementers within the transitional justice entrepreneur population in Sierra Leone's TRC. Identifying and accessing this population was mainly achieved through snowball sampling emanating from contacts I established among TRC brokers in Sierra Leone. This thesis adopted a broad approach to sampling TRC implementers, with a particular interest in accessing and interviewing TRC statement takers, commissioners and international consultants involved in the TRC.

In practice, I was able to interview a total of 11 TRC officials: seven statement-takers, one TRC Commissioner, six TRC officials involved in the research and outreach work of the TRC (four respondents within this population occupied multiple positions in the course of their employment within the TRC, thus accounting for the difference between number of officials and positions occupied), and one former government official that was directly involved in the Lomé peace agreement negotiations which officially called for the establishment of the TRC. Repeated efforts to contact international actors and consultants who largely designed the TRC's institutional framework were unfortunately wholly unfruitful. A second challenge in attempting to gain an understanding of the TRC's institutional relationship with ex-

combatants has been the lack of concrete or secondary data on the operations (particularly on outreach and sensitisation) of the TRC. This issue, of institutional memory, is particularly problematic, as it would be extremely useful to gain an understanding of the measures taken by the TRC in training its statement takers as well as accessing details on its outreach and sensitisation activities, beyond what is briefly contained within its Final Report. Illustrative of this challenge is an interview I conducted with the TRC's Regional Coordinator and Head of Reconciliation in the Northern District, who, when asked about the availability of records on TRC activities, responded by saying that they "didn't write anything down"⁸. The TRC archives have also proven to be similarly inadequate in this respect, as all administrative files are kept together with no semblance of organisation, and their sheer number makes this impossible to navigate.

The high number of individuals interviewed (147 in total) for this thesis has a significant advantage that lends empirical confidence to analysis. While inductive thematic saturation, as the comprehensive identification of relevant 'themes' or 'categories' (Saunders et al., 2018) was quickly achieved through interviews, further data collection and concurrent analysis (in line with a grounded theory approach), has enabled theoretical saturation. Theoretical saturation, as the degree of development of identified themes within the sampled populations, was sought through this study's cross-sectional population and broadly inclusive sampling strategy. This ensures a maximum range of diversity of data (Glaser and Strauss, 2017) which lends empirical confidence to the theoretical categories of both the institutional and micro-level axes of the relationship between the TRC and ex-combatant population in Sierra Leone developed as a result.

Secondary Data

The bulk of the empirical data used for this thesis comprises primary data in the form of interviews with a cross-section of populations, described in detail above. However, this is not the only type of data

⁸ TRC Official Interview, Freetown, May 5, 2017.

that has been used within this thesis. Several sources of secondary data in the form of TRC perpetrator statements and official TRC documentation have been used as sources of data, which underpin the institutional axis of examination within this thesis.

In the Spring of 2017, I spent three months in the TRC archives, and was able to generate a sample of over 300 perpetrator statements (321 statements) submitted to the TRC by 'perpetrators' from across the country. This perpetrator statement data enables secondary analysis of ex-combatant participation experiences of the TRC, through discourse analysis of the structure and content of the statements they gave to the TRC. A degree of comparison and generalisation beyond merely the TRC expectations, experiences and impacts on non-participating ex-combatants was therefore made possible through the use of this secondary data source. This enhances the validity and bounded generalisability of findings from this research. Discourse analysis was used to identify language patterns and discern the nature of ex-combatant participation through these statements. Research approval for use of these statements was provided by the Human Rights Commission for Sierra Leone (HRCSL), who oversee and safeguard the TRC archives.

Official TRC documentation is the second type of secondary data used to investigate and illuminate the institutional relationship between ex-combatants and the TRC in Sierra Leone. In particular, the foundational and operational documentation of the TRC, enshrined within its mandate documents and Final Report, have been analysed. Discourse analysis of this secondary data, has enabled a detailed empirical examination of both the institutional and micro-level axes of the relationship between ex-combatants and the TRC in Sierra Leone. Through a qualitative assessment of the mandates and final reports of Sierra Leone's truth commission, this thesis uses critical discourse analysis to analyse the observed role of perpetrators in this institution. Discourse analysis is used to develop a framework for, and subsequently test, the formal incorporation of perpetrators within the TRC (in Chapters 5 and 6 respectively). This reveals, empirically, the

degree of explicit consideration given to the participation of perpetrators within the truth commission. The framework of formal participation incorporation presented in Chapter 5 comprises the following three dimensions: the formal incorporation of perpetrators, their operational treatment, and finally the incentives identified to promote their substantive participation.

Researcher Positionality

By positionality I refer to my particular experience of conducting the extensive fieldwork for this thesis and the questions of population access and trust building in light of my own 'outsider-ness'. While my identity as an 'outsider' in relation to this research is multi-faceted, the following section confines itself to discussing my outsider-ness identity along the two dimensions that I experienced as most significant: i) the absence of any antecedent relationship to Sierra Leone and ii) the absence of any direct experience of the relationship under examination within this thesis. Other components of my outsider-ness include my gender and nationality⁹, which I have elected not to discuss here, as elements of my researcher positionality which, though present and indeed permanent, I did not experience as saliently affecting my ability to engage with my research environment or populations of interest. I have therefore opted instead to focus this discussion about my positionality around the experiences and elements of my outsider researcher identity that most directly and significantly affected my primary research engagement. It is within these elements of my researcher identity that this discussion can make the most genuine contribution to the larger and increasingly nuanced discourse on positionality within social science research. I have never lived through conflict, let alone participated in war as a combatant. Neither have I ever had any direct or personal experience with any mechanism of transitional justice. As an outsider researcher I have therefore sought to explore and understand a question for which I cannot know the

⁹ As a person of mixed backgrounds a discussion around my nationalities or ethnicities is too complex (and personal) to attempt to adequately treat within the confines of this thesis.

answers. Consequently, I have been fundamentally reliant on the willingness and openness of my respondents to participate in my research in order to accomplish this.

Access

Throughout my fieldwork I interacted with two levels of gatekeepers: outsider gatekeepers and embedded gatekeepers. Outsider gatekeepers are individuals with networks among particular populations (including embedded gatekeepers), but who remain, like myself, outsiders – removed from personal experiences of those particular populations. They include academics who have conducted research on (ex-combatants in) Sierra Leone and members of civil society. Embedded gatekeepers are individuals localised within networks of populations of interest, who through their own direct belonging to such populations or status as trusted community members, can facilitate direct access to these populations. They include for instance members of the ex-combatant community, community leaders and trusted community members.

During the initial stages of my research I engaged primarily with outsider gatekeepers to access embedded gatekeepers and ex-combatants in Sierra Leone. Through this engagement I experienced the challenge of navigating access as both enabled through, but also blocked by, outsider gatekeepers. As a result of my own outsider-ness, initial access to embedded gatekeepers through outsider gatekeepers was particularly useful, as it created an entry point for engaging with ex-combatants and gatekeepers with familiarity working with outsider researchers. Conversely, outsider gatekeepers who shielded their own networks and obstructed engagement therein showcase the importance of being mindful of the dangers of relying on such modes of access. Fortunately, the long duration of my fieldwork and the breadth of my gatekeeper network meant that I was not dependent on outsider gatekeepers to conduct my research, and allowed me to mitigate these unfortunate blockages. The diverse network of embedded gatekeepers that I cultivated stemmed from the combination of the long duration of my fieldwork, initial access granted

through outsider gatekeepers, and my own shifting positionality as a result of working with two local civil society organisations in Sierra Leone.

Trust

Establishing access does not ensure trust. By conducting over two years of fieldwork I was able to engage in long-term and repeated interactions with gatekeepers and respondents, and develop personal relationships with them. I spent time in every community I conducted fieldwork in and spoke openly about the details of my thesis before beginning my research, always starting the process of conducting interviews after spending at least two days in a particular community. My consent protocol involved ensuring that every respondent was given my contact details, and I returned to every community I conducted fieldwork in, for further interviews, follow up interviews and to provide updates on the progress of my research. I also returned to communities for events that respondents extended invitations for. On one occasion I returned to Makeni to attend the secondary school graduation and baptism celebrations of the children of two ex-combatant respondents, Harold and Gregory, whom I had interviewed twice before. In expressing his pride over his daughter's graduation, Harold shared "by the time I was her age I was already with the RUF, and now my daughter has completed her schooling. She wants to go to university – this was an impossible dream for me"¹⁰. While holding his infant son Gregory shared that "my biggest wish for him is that he never knows the pain of war and what I endured"¹¹. In sharing their family celebrations with them and the opportunities they provide to reflect on their own lives, neither Harold nor Gregory romanticise their RUF pasts. It is clear that for both of them the war meant experiencing suffering and not only inflicting it. On another occasion, I attended the wedding of a TRC official in Freetown. In a lengthy conversation, the groom's father shared how proud he was of his son's work with the TRC and stressed the continued relevance of the historical record the

¹⁰ RUF ex-combatant, Makeni, December 12, 2018.

¹¹ RUF ex-combatant, Makeni, December 11, 2018.

TRC produced. Conversations with other former TRC officials and current TRC archival staff in attendance reinforced the salience of this sentiment, and the shared sense of disappointment over the waning interest in both implementing the TRC's recommendations and in the digitisation of its archives. These opportunities to contextualise the TRC experiences of respondents within the larger framework of their current lives added richness to the relationships built throughout this research.

I also learned some basic Krio, the local language in Sierra Leone, and used the timing of my fieldwork, as coinciding with the 2018 presidential elections, as trust-building tools. These tools helped to ameliorate my outsider-ness with respondents by signalling an interest in my research environment that extended beyond the limitations of my research project and demonstrated both my understanding of, and commitment to understanding, the local context in which I was working.

As noted above, I experienced differences in trust relationships, between those built through outsider gatekeeper networks and those emanating from embedded gatekeepers. Many respondents accessed through outsider gatekeepers had prior experience participating in research projects and were quickly comfortable with providing informed consent and expressing a confident understanding of the purposes of my research and their participation therein. Conversely, establishing trust with respondents through embedded gatekeepers with no history of research engagement required more time and explanation. My presence was at times met with initial wariness and I often had to give lengthy explanations around who I was, where I came from, what I was doing, and why. However, while establishing initial trust through outsider gatekeepers was facilitated through respondent and gatekeeper histories of research engagement, these very histories of research engagement also formed barriers to building long-term trust. Researcher engagement is generally short-term, superficial and largely extractive in character (van den Berg, 2019), which has created the widespread expectation that researchers "come to talk for a small

time and then they leave and we hear nothing”¹² from them. Conversely, respondents accessed through embedded gatekeepers with no prior research exposure did not display this scepticism around the sincerity of my engagement, which facilitated the process of building long-term trust. Cultivating trust among respondents was also greatly facilitated by my work with two local civil society organisations, which shifted my positionality and enhanced perceptions of my legitimacy as a researcher, through my attachment to local organisations that were well-known by respondents and communities and highly positively regarded among them.

As introduced earlier, alongside conducting fieldwork, I worked as a researcher with two local civil society organisations in Sierra Leone. My shifting positionality as a result of this work facilitated access to, and trust building among, populations of interest for my thesis. I worked with a local paralegal non-governmental organisation in Sierra Leone, and combined travelling throughout Sierra Leone for research projects with them with data collection for my thesis. Secondly, I worked with a local research think tank, and led two research projects with them: on electoral violence and social cohesion after the 2018 presidential elections, and on access to justice throughout Sierra Leone in 2019. Chapter 10 of this thesis, on the impacts of the TRC on ex-combatants in Sierra Leone, draws attention to persistent references to the TRC’s recommendations as part of the (largely empty) political rhetoric in Sierra Leone today - an insight that this research was partly able to glean through the independent research on electoral violence and social cohesion that I conducted. In this discussion, I draw attention to recent calls made by the current President of Sierra Leone, Julius Maada Bio, for the establishment of an Independent Commission for Peace and Social Cohesion, to address the root causes of poverty and war identified in the TRC’s Final Report (2004). I highlight that such a Commission remains a promise on paper only, and (at the time of writing) has not yet been established. This research project on electoral violence and social cohesion was tasked with providing policy

¹² RUF ex-combatant interview, Freetown, July 4, 2018.

recommendations to the Government of Sierra Leone in establishing this Commission. Working with civil society has uniquely enriched my knowledge and understanding of Sierra Leone – its justice landscape, its post-conflict peacebuilding and development challenges, and the complex, intersecting and evolving identities of citizens who have had to navigate the challenges of both war and peace.

A Word on Knowledge Production: lessons learned from the field

One final implication of the length of my fieldwork experience in Sierra Leone has been on the issue of research ethics and knowledge production. Sierra Leone is a popular research environment for peace and conflict research generally, and ex-combatant studies specifically. It is also home to many post-conflict development programmes, whose interventions mirror research engagement among their participants and beneficiaries. This saturation has very real though unacknowledged effects among the ex-combatant community in particular, many of whom have instrumentalised their combatant pasts into an industry of research participation, from which they are able to earn a sporadic living from short-term researchers. Discussions on extractive practices of knowledge production in academia are important and growing, though many problematic practices remain unacknowledged or unchanged in praxis. In line with the degree of research saturation that I have observed throughout my fieldwork in Sierra Leone, and the consequences this has had, however unintended, on spurring an industry of research participation among local populations there, I would therefore urge researchers to consider these elements as part of the calculus of their case study selection for future research that considers Sierra Leone as a potential case study for examination. In summary, I would caution against future research among this population in Sierra Leone that does not actively consider these elements, and encourage future ex-combatant research to consider engaging with less saturated ex-combatant populations in other countries, as well as to put into practice active measures to prevent extractive knowledge production.

Conclusion

This chapter has detailed the research design and methods used to explore the research puzzle that this thesis addresses: the relationship between ex-combatants and the TRC in Sierra Leone. It has presented the rationale for the use of a qualitative approach to the in-depth single case study examination of this relationship, which seeks to illuminate, describe and understand both the institutional and micro-level axes of ex-combatants in relation to the TRC.

As presented in Chapter 1, this thesis's examination of the relationship between ex-combatants and the TRC in Sierra Leone is pursued along two axes, and is guided by several sub-questions. Along its macro-level of investigation (the institutional axis of this research), institutional engagement with, and treatment of, ex-combatants within the TRC is analysed in Part 3 of this thesis. Uncovering the institutional axis of the TRC's relationship with the 'perpetrator' population entails elucidating its institutional commitment to this population, as well as the operational measures implemented to fulfil its participatory mandate. within the dimension of transitional justice rhetoric, qualitative analysis of current strands of transitional justice research and critiques around the normative foundations of the field are used to highlight both the binary identity framework that pervades transitional justice discourse, and identify the problematic normative assumptions that underlie this framework. This addresses the three questions of (i) why is there a need for transitional justice, (ii) what is the identity framework produced by this discourse, and (iii) what space do perpetrators occupy in this identity framework? Along the institutional dimension of transitional justice ritual, discourse analysis tools are used to answer the questions of (i) whose justice agendas determined the design and goals of the TRC, (ii) what was the participation framework of the TRC, (iii) did this privilege certain transitional justice actors, and (iv) how inclusive (or exclusive) were the TRC's designs and ambitions? This has illuminated the formally mandated role and relevance of perpetrators in the design of the TRC. Along the dimension of reality, discourse analysis against secondary data sources in combination with analysis

of primary narrative data collected from interviews with TRC entrepreneurs informs findings around the questions of (i) how did the TRC implement its local participation framework, (ii) how inclusive (or exclusive) were its operations in reality, and (iii) what was the practice of justice-seeking implemented by the TRC in relation to its identified local TRC participants? This produces an in-depth empirical understanding of institutional engagement within the TRC, and in relation to ex-combatants specifically.

Along its second axis, a localised understanding of ex-combatant expectations, experiences and impacts in relation to the TRC is also undertaken in Part 3 of this thesis. A qualitative research design has been adopted to collect ex-combatant narratives in relation to the TRC. This is done through the use of primary narrative data collected from 112 semi-structured and in-depth ex-combatant interviews, among non-participant ex-combatants, and employing the sampling criteria outlined above. Qualitative analysis of this primary data, using an abductive strategy, is used to construct an in-depth understanding of this relationship, through a localised lens. Additionally, secondary data in the form of TRC perpetrator statements allows for some comparison and generalisation beyond exclusively non-participant ex-combatants. These data collection and analytical tools are used to answer the sub-questions (presented in Chapter 1) that together generate a detailed understanding of ex-combatant expectations, experiences and impacts in relation to the TRC. Chapter 3 is the final chapter of Part 1 of this thesis, and provides a literature review of the field of transitional justice, the core discipline within which this thesis is situated, and to which its conceptual and empirical contributions speak most directly, as well as a historical background of Sierra Leone. It details the actors and events of the civil war that lasted over a decade, and the post-conflict landscape that emerged in its aftermath.

Chapter 3

Literature Review and Historical Case Background

A Literature Review of Transitional Justice

Chapters 1 and 2 of this thesis have defined the research puzzle of this research, and the research design it has adopted in order to do so. This chapter, the final of Part One of this thesis, comprises two components. Firstly, it proceeds with a literature review of the field of transitional justice that contextualises the contributions of this thesis to the broader discourse in which it is principally housed. Secondly, a brief historical background of Sierra Leone is provided, focusing on the civil war that lasted from 1991 to 2002, and the contours of the post-conflict peace-making, peacebuilding and transitional justice landscape in Sierra Leone. Together, this literature review of transitional justice and historical background of Sierra Leone provide the necessary theoretical and historical context within which this thesis's examination of transitional justice in Sierra Leone, through the lens of ex-combatants, is situated.

Transitional justice refers to the range of processes designed to address widespread violations of human rights committed in periods of state repression or conflict (Grodsky, 2009; Lessa, Olsen, Payne, Pereira and Reiter, 2014). The field of transitional justice arose as a response to histories of violence and abuse. Despite significant differences across transitional contexts, "there is one feature that unites all these contexts: the legacy of widespread violence and repression" (Freeman, 2006, p. 5). It is this feature, the common denominator of abuse, that has borne transitional justice into the world. Mechanisms of transitional justice include trials; truth commissions; reparations; and lustration policies (Thoms et al., 2008), and all aim to provide some degree of accountability for gross violations of human rights of the past (Lambourne, 2009). They aim to promote healing and reconciliation, foster respect for human rights, rebuild the rule of law,

provide retribution for perpetrators of gross human rights abuses, and, more generally, promote institutional and democratic reform (Thoms et al., 2008). Gready refers to the “metagoals” (Skaar, 2018, p. 409) of “truth, justice, and reconciliation” (p. 409) as the ‘triumvirate’ (Gready, 2010, p. 15) of transitional justice. In sum, transitional justice mechanisms, according to their supporters, have the potential to achieve both deterrence and reconciliation (Olsen, Payne and Reiter, 2010; McAuliffe, 2010).

However, as highlighted previously, transitional justice is often criticised for being built on “faith” and not “fact” (Thoms et al., 2010, p. 331). Causal analysis on the individual and community impact of these processes against their purported society-wide benefits is largely missing (Thoms et al., 2008, p. 5) and research directly evaluating local experiences of, and public opinions towards, these mechanisms remains sparse (Aguilar et al., 2011; Millar, 2011). Transitional justice research therefore suffers from both the ecological fallacy that assumes the translation of societal benefits onto the individual, and lacks bottom-up engagement. This thesis builds grounded theory precisely through adopting a bottom-up research strategy, using data collected from perpetrators to empirically reveal localised expectations, experiences and impacts of truth commissions for this component of the local. In so doing, a critical examination of the normative foundations of transitional justice, its institutional participation limitations and finally the practice of justice-seeking within a particular truth commission, contributes to important critiques of the problematic binaries that inhibit the effective implementation of this discourse. This thesis thereby advances the field of transitional justice by contributing novel micro-level analysis of perpetrator experiences, a neglected but necessary participant category within truth commissions, against their macro-level institutional treatment therein. Understanding these experiences sheds new critical light on truth commissions as locally responsive, inclusive or restorative. The remaining first half of this chapter dedicates itself to a literature review of the field of transitional justice. The next section provides an overview of the history of the field, followed by a discussion of the core debates

that have permeated the field (that of amnesty versus trials; retributive versus restorative justice; and local versus international ownership in transitional justice) and positions the contributions of this thesis therein. Finally, a genealogical discussion around the particular transitional justice mechanism of truth commissions is provided, as this is the mechanism of transitional justice under examination within this thesis. The second half of this chapter presents an historical background of Sierra Leone, its civil war and post-war landscape, and its transitional justice history in particular.

The History of Transitional Justice

The field of transitional justice has undergone a rapid crystallisation since its emergence. Its foundations are largely normative (Bell, 2009), and the need for accountability originally informed transitional justice in the 1940s as a backward-looking, retributive and inherently punitive undertaking. After a period of stagnation during the Cold War, transitional justice re-emerged in the 1980s, with the “justice cascade” in Central and Latin America (Lutz and Sikkink, 2001, p. 4), and Eastern Europe. The 1990s saw a broadening of the discourse in two directions (Roht-Arriaza, 2006). Firstly, the ambit of international legal responses to atrocities expanded significantly, with the establishment of *ad hoc* international criminal tribunals for former Yugoslavia and Rwanda, and culminating in the creation of the International Criminal Court (ICC). Secondly, alternative mechanisms came to the forefront of the transitional political bargaining landscape. The establishment of South Africa’s TRC in 1995 “pushed to centre stage consideration of alternative legal mechanisms for dealing with the past” (Bell, 2009, p.8).

The consolidation of this “incredibly fast field” (Roht-Arriaza, 2006, p. 8) came about sometime after 2000, and transitional justice is now understood as an essential response to systematic human rights violations. The paradigm shift that broadened the need for, and ambitions of, transitional justice is illustrated in the 2004 UN report on *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* (Bell, 2009). The explicit recognition of transitional justice as

a tool for broader political and social goals and change, beyond its narrow and backward-oriented origins, has been echoed by diplomats, lawyers, politicians and scholars alike. Today practitioners confront issues of transitional justice daily, and “mediators can no longer escape the call for accountability processes to be included in peace negotiations” (Macdonald, 2013, p. 6).

Teitel (2003) describes the evolution of transitional justice as comprising (to date) three phases. Phase one captures the period between the end of World War II and the onset of the Cold War, and was defined by “interstate cooperation, war crimes trials, and sanctions” (Skaar, 2018, p. 408). The Nuremberg and Tokyo trials are illustrative of transitional justice during this phase, as is the absence of truth commissions, as this period prioritised prosecution (Teitel, 2003). After a period of stagnation (of almost four decades), phase two began in the post-Cold War period. This phase saw an expansion of transitional justice to a “more diverse focus on ‘truth’ and ‘justice,’ with ‘reconciliation’ as a desired outcome” (Skaar, 2018, p. 408). Formal mechanisms of transitional justice during phase two were diversified to include non-legal mechanisms including truth commissions. According to Teitel (2003) and Skaar (2018), we are currently in phase three, wherein transitional justice has embedded itself as part of the desired and indeed required post-conflict infrastructure, deemed both necessary and unavoidable for the successful transition from conflict to peace. Considerations of the local are a particularly salient feature within the current phase of transitional justice, with criticisms of transitional justice’s traditionally top-down orientation and calls for locally inclusive, responsive and led processes gaining swift currency among scholars and practitioners. This reflects a larger shift in favour of localisation among peace and development discourses more broadly, where the necessity of participatory approaches has achieved unchallenged consensus.

Scholarship has correspondingly also evolved, along the lines of both discourse and debate. Originally dominated by legal scholars and political scientists, Skaar (2018) highlights that the field has now

“become truly interdisciplinary” (p. 409). Growing recognition of the vast universe of justice and the equally diverse paths to justice-seeking as well as the interplay between transitional justice and the broader peacebuilding landscape within which it operates have given rise to rich interdisciplinary scholarship. For instance, work examining the socio-economic potential of transitional justice is gaining currency (see for instance Schmid and Nolan, 2014), and more recently, efforts to link transitional justice to the urgently emerging climate change discourse evidence the ever expanding and intersecting world of transitional justice (see Klinksky, 2018). Skaar (2018) emphasises that this growth has also prompted a shift in scholarly debates, “from a principal focus on normative claims to an increasing concern with their empirical verification” (p. 409). This thesis engages with both such axes of the debates in transitional justice, using thorough empirical data to critically examine the normative identity and participation structures put in place by the field of transitional justice, and the practice of truth commissions specifically.

Debates

As introduced above, the genesis and development of the field of transitional justice has engendered a number of debates within the discourse. An overview of the three core debates within the field situates the contributions of this thesis within transitional justice, achieved through its holistic exploration of the relationship between ex-combatants and the TRC in Sierra Leone.

The imperfect conditions within which transitional justice operates is captured in Bell’s (2009) characterisation of the field as a “range of particularised bargains on the past” (p. 15). The most significant of these bargains or trade-offs are captured in the three core debates that have permeated the discourse and haunted its development. Firstly, the overall contributions and desirability of transitional justice have been challenged in the amnesty versus trials debate. Secondly, trials and truth commissions have been pitted against one another in the retributive versus restorative justice debate. Finally, as the issue of ownership has gained increasing salience in peace and development

discourses, a debate on local versus international ownership of these processes has unfolded. While the contributions of this thesis are concentrated in the latter two debates, an outline of all three is central to an understanding of the field.

Amnesty versus Trials

The earliest and most obstinate debate within transitional justice is that of amnesty versus trials (also known as the peace versus justice debate) (Szablewska and Bachman, 2015). Advocates of trials (pro-justice position) have been historically met with the pro-amnesty rebuttal (pro-peace position) highlighting the dangerous trade off that this involves (Vinjamuri, 2010). At the heart of this debate is a temporal trade-off between the short-term dangers that justice poses to peace and stability, against its long-term utility for deterrence and rule of law (Jarstad, 2008).

The pragmatic pro-amnesty position is premised on a utilitarian logic of consequences, stemming from rational choice theory. This dictates that individuals are self-interested and their behaviour is determined through cost-benefit calculations. For transitional justice this means that the “consequences of trials for the consolidation of peace and democracy trump the goal of justice per se” (Vinjamuri and Snyder, 2004, p. 353). Pragmatists oppose the use of trials by positing that post-transition states lack the appropriate and necessary infrastructure to hold legitimate trials, and caution against “overwhelm(ing) newly installed, fragile civilian governments with demands for criminal prosecution” (Roht-Arriaza, 2006, p. 3). There is also the fear that trials may create spoilers that destabilise the fragile peace, by preventing parties from approaching the negotiating table or incentivising renewed violence (Vinjamuri and Snyder, 2004). Amnesties have thus traditionally been advocated as an “inevitable concession” (Roht-Arriaza, 2006, p. 3) sacrificing justice in order to achieve peace. While amnesties have historically been considered an acceptable sacrifice in exchange for peace and stability, the re-emergence of justice concerns after transitions in Latin America and Eastern Europe in the 1980s

enlivened this debate surrounding the proper strategy for dealing with the past.

The pro-trials position, conversely, highlights the important role that prosecutions play in post-transition societies. This legalist approach is premised on a normative logic of appropriateness which dictates that actors' behaviour is guided by norms that are considered appropriate (Vinjamuri and Snyder, 2004). Formal prosecution is argued to provide the most "authoritative rendering of the truth" (Orentlicher, 1991, p. 2546). The widespread benefits of trials lie in their dual ability to individualise guilt and affect larger societal change. Illustrative of this are the two dimensions of deterrence that trials accomplish. According to Thoms et al. (2008), trials achieve both special (direct) deterrence by punishing and thus preventing identified perpetrators from re-offending, and generalised deterrence by shifting the cost-benefit calculations of future potential offenders. In sum, the pro-justice position argues that transitional justice prosecutions are the incontestable obligation of the state, providing a significant punitive and deterrent function for societies emerging from conflict and/or repression. The right to truth is also commonly asserted to underpin the need for transitional justice, expanding the argument from merely justice as required to punish and prevent, but also the need for justice as an unchallengeable duty of states towards the victims of abuses, who have an inalienable right to truth and redress.

The pitting of peace against justice speaks to the larger oppositional identity framework imposed by transitional justice of perpetrators versus victims, thus highlighting the pervasiveness of the binary identity model adopted within the field. The pro-peace position foregrounds a need to pacify perpetrators to ensure a genuine peace, while the pro-justice position is premised on a need to provide redress for victims. The presentation of these priorities as oppositional and mutually exclusive emphasises the normative assumptions that victims and perpetrators can be neatly separated, and that the interests and needs of the one are incompatible with those of the other. As this thesis will demonstrate, this binary presentation of conflict-affected

populations vastly over simplifies the complexities of lived experiences of war, and assumptions around these needs as mutually exclusive do not reflect shared experiences of suffering, nor the widespread desire for peace.

It is worth noting that this debate has not remained stagnant. As outlined earlier, the concept of amnesties within transitional justice has developed. The normalisation of international criminal justice (Macdonald, 2013b) and proliferation of transitional justice mechanisms have resulted in the widespread consensus that blanket amnesties are no longer permissible. Indeed, promises of amnesty at the national level “cannot be airtight and are subject to both international revision and domestic re-evaluation” (Roht-Arriaza, 2006, p. 11). Similarly, the recognition of transitional justice as a long-term process (Macdonald, 2013), and the expansion of its aims and mechanisms mean that these mechanisms are increasingly seen as complementary. Work by scholars such as Olsen et al. (2010) on the timing and combination of transitional justice mechanisms highlights this shift away from short-term polarising discussions around this debate.

Ultimately, the pro-amnesty position is characterised by its short-term focus, privileging peace immediately after transition, over justice in the long-term. The pro-trials position, on the other hand, highlights the need for accountability and redress for past abuses. According to Roht-Arriaza (2006) “the past, unaccounted for, does not lie quiet” (p. 1). It is against this backdrop of the original debate between the importance of trials and the need for amnesties, that the advent of truth commissions, as a ‘second-best’ approach to transitional justice, emerged in the 1980s and 1990s.

It is not the ambition of this thesis to engage with the question of the external validity of transitional justice as a broader enterprise. As a starting point, this research accepts the existence of transitional justice processes in the pursuit of post-conflict peacebuilding, and the criticisms and challenges that accompany them. The focus within this thesis is to critically examine and empirically enrich localised

evaluations of experiences of transitional justice, in particular that of ex-combatants in relation to post-conflict truth commissions.

Retributive versus Restorative Justice

The retributive versus restorative justice debate (also known as the truth versus justice debate) is characterised by the division between proponents of truth commissions and those of trials as contrasting mechanisms of transitional justice. The rise of truth commissions in the 1990s, as an alternative to trials when prosecution was not possible, quickly engendered a heated debate on the relative strengths and weaknesses of each. While efforts to reconcile this debate have highlighted complementarity between these mechanisms (Roht-Arriaza, 2006), traditionally trials are considered retributive, while truth commissions are regarded as restorative or reconciliatory (Aiken, 2008).

The logic of appropriateness once again underlies legalist support for trials, as a retributive instrument of transitional justice. Legalists uphold the robust obligation of states to punish perpetrators and provide redress for victims, for which trials are uniquely appropriate (Orentlicher, 1991). The two dimensions of deterrence that trials promote further underscore the advantages of prosecutions over alternative processes. According to Orentlicher (1991), criminal prosecution provides the “most effective insurance against future repression” (p. 2540).

The restorative approach typically advocates for the use of truth commissions, in what Vinjamuri and Snyder (2004) have termed the “emotional psychology approach” to transitional justice (p. 357), which promotes an understanding of justice that is locally derived, and heavily centred around victim needs. The cathartic process of truth telling prioritises the restoration of relationships and reconciliation at the community level. Accountability and a rich narrative of the past is achieved through the non-punitive participation of perpetrators, which also closes the gap between knowledge and acknowledgement. The breadth of local engagement that truth commissions rely on cannot be

matched by criminal prosecutions, which are necessarily limited in their prosecutorial scope.

The retributive versus restorative justice debate in transitional justice has historically pitted trials and truth commissions against each other, and typically characterises the former as backward-looking, concerned with individualising guilt and promoting accountability for past abuses. The latter is traditionally presented as a forward-looking non-judicial alternative that promotes reconciliation through truth-telling. The oppositional classification of these transitional justice mechanisms has however been challenged, and efforts to reconcile this debate have highlighted complementarity across these mechanisms. According to Roht-Arriaza (2006), the increasing use of both trials and truth commissions has shifted the debate from truth versus justice towards an integrated approach that recognises them as complementary. Calls for a holistic or 'ecological' approach to transitional justice and research investigating the timing, combinations and sequencing of different mechanisms reinforce this evolution in the scholarship (see Fletcher and Weinstein, 2002). Recognition of the ongoing expansion of transitional justice aims also highlights the complementarity between these mechanisms, and adds weight to Daly's debunking of the myth that restorative justice is the opposite of retributive justice (2005).

This thesis contributes to this debate by critically evaluating the restorative character of Sierra Leone's truth commission, through the lens of its ex-combatant population. Perpetrator participation in truth commissions is both necessary for the fulfilment of TRC objectives, but also severely restricted by its unforgiving normative and institutional narrative framework. The problematic binary participation model implemented within Sierra Leone's TRC, with its broader normative underpinnings, calls into question the restorative and reconciliatory potential of this mechanism of transitional justice. Moreover, it introduces the danger that, contrary to its restorative promises, this form of justice may in fact further retributive outcomes, when reconsidering the concept of punishment and foregrounding the TRC

experiences of ex-combatants. Reconciling and restoring social relationships inherently requires interaction across conflict experiences (elaborated in more detail below), thereby necessitating the active participation of perpetrators. By uncovering the necessary but neglected role and relevance of perpetrators in truth commissions, and through a comprehensive investigation of their TRC expectations, experiences and impacts, this thesis challenges the restorative claims and capacities of the TRC.

Ownership: local versus international

The importance of the 'local' has come to the forefront of peacebuilding discussions (see Chapter 1). Within transitional justice, questions of ownership and the debate around the necessary and appropriate role for international and local actors takes on special significance. As a normatively driven enterprise, the need for transitional justice, as a prerequisite for successful peacebuilding, strongly reflects the Western justice paradigm, and it is the international community that continues to actively demand, design and impose the need for, and nature of, transitional justice in reforming states (Madlingozi, 2010; McEvoy, 2007). Within the current phase (three) of transitional justice, interest in "local or traditional processes of justice and reconciliation" have become squarely mainstreamed (Skaar, 2018, p. 409). Local engagement as a measure of legitimacy has come to include the degree of responsiveness, accessibility and participation of affected communities in not only the implementation of transitional justice processes, but in their design, relevance and impact more broadly. The debate on ownership is not unique to transitional justice, and has permeated the larger discourses of peacebuilding and development policy and scholarship. Discussions on defining the local and the logic of participation that stem from these discourses and are vital to this thesis can be found in Chapters 1, 4 and 5. As a localised analysis of transitional justice, this debate is of central significance within this thesis.

Early experiments with truth commissions and prosecutions were either almost completely national (i.e. South Africa or Chile) or

completely international (such as in El Salvador) (Roht-Arriaza, 2006). The emergence of the universal human rights and humanitarian law regime, and the ensuing rise of criminal prosecutions under international law, brought forth the sentiment that international ownership, most commonly associated with trials, was advantageous for these processes. The legitimacy, impartiality, resources and visibility of international ownership underpinned the design of the international *ad hoc* tribunals in Rwanda and the former Yugoslavia. These merits of international ownership in transitional justice catalysed the rise of international *ad hoc* tribunals in the 1990s, and the establishment of permanent international criminal courts. Proponents of international ownership stress the need for transitional justice to be implemented ‘from above’ in transitional societies, due to the lack of legitimate national infrastructure available in such contexts. Advocacy around international ownership of transitional justice is premised in the universality of the human rights regime, which has created an active obligation to seek justice for crimes under international law, and the argument that international ownership enjoys high levels of external legitimacy, impartiality, visibility, expertise and resources (Dougherty, 2004).

However, mixed reviews about the success of the *ad hoc* tribunals, and the need to avoid a “one size fits all” approach (Alvarez, 1999, p. 370) to criminal justice created a demand for alternative mechanisms, designed from ‘below’. The question of whose justice is being delivered and concerns over the appropriateness of an externally-determined justice agenda takes on three dimensions. Firstly, according to Donais (2009), privileging external knowledge and agendas over local ones represents a contemporary form of normative imperialism, as the international community retains a monopoly of agency over matters that directly affect reforming states and their populace. Madlingozi (2010) reiterates this, labelling the discourse of transitional justice as a practice of “cultural imperialism” (p. 211). Secondly, the argument that international actors enjoy high levels of external legitimacy, impartiality and expertise assumes an altruistic agenda on the part of the international community, that risks overestimating both

“international capacity and political will” (Donais, 2009, p. 124) in matters of transitional justice. In recent years, concerns over the legitimacy of international ownership in matters of international law has culminated in heated debates spurring the potential exodus of several African states from the ICC, bringing to the fore again the question of whether the international community is “always (or ever) benignly altruistic” (Donais, 2009, p. 119) as an appropriate custodian of justice. Finally, there are concerns over the local legitimacy and resultantly the sustainability, of ‘top-down’ or ‘outside-in’ transitional justice, driven by evidence that externally-driven processes, no matter how well-intentioned, are ultimately self-defeating, as they lack local resonance and legitimacy (Donais, 2009).

Local ownership in transitional justice as the role of domestic actors to design, as well as manage and implement justice processes, has emerged as the solution to rigid and imperialist international transitional justice measures. The domain of the local is itself a complex territory, inhabited by myriad actors and levels, as conceptualised in Chapter 1. Broadly speaking, it refers to the body of domestic levels and actors that comprise the site of transitional justice implementation. The first scholars to highlight the need for transitional justice to incorporate the local questioned the responsiveness of these processes to the contexts within which they were being transplanted (Macdonald, 2013). According to supporters, local ownership of transitional justice processes provides a more understandable process, can have a greater impact on the preservation of collective memory, and can contribute more meaningfully to long-term reconciliation and rule of law than prosecutions that are perceived as distant (Roht-Arriaza, 2006; Vinjamuri and Snyder, 2004). Local ownership is thereby understood to achieve more sustainable justice and reconciliation outcomes than externally-driven international processes (Donais, 2009). This argumentation forms the backbone of the logic of participation developed within this thesis in Chapter 5.

As with the other debates, here too there is evidence of some convergence and complementarity between local and international

practices. In its 2004 report on transitional justice, the UN recognised the important role that “indigenous and informal traditions” (p. 12) play as part of the larger transitional justice framework. The ICC is founded on the notion of complementarity, and the establishment of hybrid courts in places such as East Timor, Sierra Leone (The Special Court for Sierra Leone, discussed in the second half of this chapter) and Cambodia demonstrate a willingness for the international to engage with the local (Roht-Arriaza, 2006).

The History of Truth Commissions

The specific history and evolution of truth commissions warrants description. In essence, truth commissions are fact-finding bodies, established to investigate and document violations and contribute to their non-recurrence. According to Skaar (2018), non-recurrence is primarily achieved through the body of recommendations produced by this mechanism of transitional justice, and accordingly, it is within this element of truth commission work where their real transformative potential lies. Skaar (2018) summarises the “most fundamental undertakings of truth commissions” (p. 407) as threefold: investigating abuses, documenting abuses, and producing recommendations to address abuses and prevent their recurrence. While truth commissions may additionally be established to pursue a variety of other objectives, truth-telling and non-recurrence remain the core enterprise of their work. Truth commissions are understood as synonymous with restorative justice (Aiken 2008). Reconciliation, defined as the (re)construction of positive and durable relationships between different groups through the mutual acknowledgement of past suffering (Brounéus, 2008), is another common feature of these bodies. This requires the participation of both victims and perpetrators to be successful. This is apparent in the definition of reconciliation, which is inherently interactive. According to Aiken (2008), there is a “need to involve both victims and perpetrators as cooperative partners” (p. 19) in restorative justice processes, which emphasise the worth of both victims and perpetrators. An absence of perpetrator engagement is

therefore “contrary to restorative justice’s promise to aid the repair of social relations in post-conflict societies” (Nwogu, 2010, p. 283).

Unlike trials, truth commissions have no prosecutorial powers (Skaar, 2018), and are non-judicial (Freeman, 2006). Freeman (2006) centralises the right to truth as the primary task of truth commissions. This is reinforced by Skaar (2018), who argues that revealing, documenting and recording the truth are the critical objectives of this mechanism of transitional justice. Chapter 1 has already laid out the definition of truth commissions used for the case selection of this thesis, following the dominant framework provided by Hayner (2001; 2011), “the leading authority on the subject” (Freeman, 2006, p. 12). However, as Skaar (2018) notes “there is no single, widely accepted definition of what a truth commission is” (p. 403). Three central definitions dominate truth commission scholarship, provided in work by Hayner (2001; 2011) and Freeman (2006) (Hayner provides two definitions, a result of adapting her original definition). For the purposes of this thesis it is appropriate to apply Hayner’s definition of a truth commission, due to one significant difference between the frameworks offered by Hayner (2011) and Freeman (2006): the treatment of victims. Freeman’s truth commission definition demands that these bodies be victim-centred. As this thesis seeks to critically examine this particular aspect of truth commissions, adopting Freeman’s definition presents obvious difficulties, as it stands in contrast with the overriding argument within this thesis in favour of the significance of perpetrators within such bodies. Freeman (2006) describes the terminology of truth commissions as “Orwellian” (p. 11) in name. He goes on to develop what he claims is a descriptive definition of truth commissions that is “not normative” (2006, p. 19). Yet the simultaneous emphasis on the right to truth and the pursuit of an impartial truth against the need for these bodies to be victim-centred present an inherent contradiction that betrays serious normative assumptions around what constitutes truth and whose truth counts. The definition he presents, when unpacked, is in fact Orwellian in nature as well. Regarding the composition of truth commissions, Freeman (2006) notes that truth commissions are “inherently political

enterprises” (p. 37), and the role of the state in their establishment and operations brings with it high risks of politicisation. Such involvement is however unavoidable. As such they may be created with “diverse motives” which can be “cynical or laudable”, self-serving or democratically underpinned (Freeman, 2006, pp. 37 - 38).

The first truth commission was established in Uganda in the 1970s, followed by Bolivia in the early 1980s (Hayner, 2011). Since the 1980s, truth commissions have proliferated (Freeman, 2006). The majority of truth commissions established since the 1980s have been in Latin America (where its idea and model were “perfected” (Skaar, 2018, p. 402)) and sub-Saharan Africa (Freeman, 2006). While experts agree that the Argentinian Commission of the early 1980s ushered in global attention for the first time, South Africa’s TRC in 1995 remains the most well-known truth commission (Freeman, 2006). In fact, Freeman (2006) argues that we can consequently divide the history of truth commissions into two periods: before South Africa, and after. A particular shift in the practice of truth commissions that the South African experience has inspired has been the holding of public hearings. Prior to South Africa, truth commissions “did not conduct victim-centred public hearings” (Freeman, 2006, p. 26). However, such hearings have become a staple among these bodies since that time. Freeman (2006) distinguishes between the contemporary model of TRCs, that conduct hearings, and the early model of truth commissions, which do not. Truth commissions have become the “preferred fixture” of transitional justice (Freeman, 2006, p. 11).

Sierra Leone: A Historical Background

The first half of this chapter has provided an overview of the history and state of the field of transitional justice, its core debates and the history of the particular mechanism of truth commissions. The second half of this chapter dedicates itself to providing an historical overview and background of Sierra Leone, the case study for this thesis, to situate the subsequent in-depth empirical analysis of ex-combatants in relation to the TRC there. This historical overview proceeds in two parts: firstly, the phases and abuses of Sierra Leone’s civil war are

elaborated, as the backdrop against which the TRC (and other transitional justice processes) was established. Secondly, the immediate post-war landscape in Sierra Leone is detailed. In particular, the landscape of transitional justice processes established in Sierra Leone, encompassing the TRC and SCSL, are briefly described. These institutions are of central significance within this thesis's subsequent empirical examination, due to its focus on the TRC specifically. The unavoidable interplay between the TRC and SCSL, as separate but co-existing mechanisms of transitional justice, also necessitates an understanding of the SCSL as part of this thesis's broader research agenda. Additionally, the DDR programme that operated from 1998 to 2002 is introduced. Chapter 7 of this thesis links the DDR programme in Sierra Leone to the relationship between ex-combatants and the TRC, along the dimension of ex-combatant expectations. The nexus constructed between DDR and transitional justice in Sierra Leone within this thesis contributes to a nascent strand of research that acknowledges and examines the interactions and effects of each field on the other. The DDR programme in Sierra Leone therefore holds direct relevance for this thesis's particular research question, and uncovering these links between DDR and transitional justice forms part of its overall contributions.

Civil War in Sierra Leone

The civil war in Sierra Leone began in 1991, on the 23rd of March, when the Revolutionary United Front (RUF), an armed insurgency group, entered Kailahun District in Eastern Sierra Leone, from Liberia. The war, described by Harris (2014) as "a particularly nasty conflict" (p. 81) lasted for 11 years, and was officially declared to have ended in January 2002.

The civil war was characterised by shifting constellations of armed groups and alliances. The main domestic armed groups of the war were the Revolutionary United Front (RUF), the Sierra Leone Army (SLA – later transformed into the Republic of Sierra Leone Armed Forces or RSLAF), the Kamajors and Civil Defense Forces (CDF), and the Armed Forces Ruling Council (AFRC). However, as shall be

highlighted below, these groups converged and intersected in shifting ways throughout the conflict, and thus do not lend themselves to clear or neat distinctions. Additionally, the “internationalisation” (Harris, 2014, p. 85) of the war in Sierra Leone is commonly held to have not only contributed to its duration, but also offered as a popular explanation for its onset. International actors, in particular Former Liberian President Charles Taylor and his rebel group, the National Patriotic Front of Liberia (NPFL), Former Libyan President Gaddafi, the United Kingdom, The UN, the Economic Community of West African States Monitoring Group (ECOMOG) (and in particular Nigeria) troops, and international mercenary actors (i.e. Executive Outcomes and Branch Heritage) all played significant roles as participants within the conflict.

In a detailed genealogy of the war and its causes, Harris (2014) distinguishes three phases of conflict: the initial phase of 1991-1996, the second phase from 1996-1999, and finally the third phase between 1991-2001 which he describes as “the beginning of the end” (Harris, 2014, p. 110). The following brief historical summary of Sierra Leone’s devastating civil war follows the three-phase construction provided by Harris. A particular focus is given to the domestic armed groups and their roles and histories within the conflict, as these populations are the focal point of this thesis¹³.

Phase 1: 1991-1996

The civil war began in March 1991, when RUF rebels, led by Foday Sankoh, and with support and training from Charles Taylor in Liberia

¹³ The historical overview provided within this thesis is restricted to the events and phases of the civil war in Sierra Leone. Detailed writings on its antecedents and the war itself can be found in works by, for instance: L. Gberie (2005) *A Dirty War in West Africa: The RUF and the Destruction of Sierra Leone* (London: Hurst); D. Harris (2013) *Sierra Leone: A Political History* (London: Hurst); M. D. Jackson (2004) *In Sierra Leone* (Durham: Duke University Press); K. Manson and J. Knight (2009) *Sierra Leone* (Chalfont St Peter: Bradt Travel Guides); W. Reno (1995) *Corruption and State Politics in Sierra Leone* (Cambridge: Cambridge University Press); P. Richards (1996) *Fighting for the Rainforest: War, Youth and Resources in Sierra Leone* (Oxford: International African Institute)

and Gaddafi in Libya, entered the eastern province of Kailahun from the Liberian border. While the RUF strongly opposed the ruling All People's Congress (APC) government at the time (Harris, 2014), the group's origins have strong regional and international dimensions. A group of "perhaps 35-50" (Harris, 2014, p. 83) Sierra Leoneans, together with Liberians, received insurgency training in Libya in the late 1980s, sponsored by then-president Gaddafi. In 1991, with support from Taylor, known as the "puppet-master in this corner of West Africa" (Harris, 2014, p. 84), and his NPFL rebel forces, RUF rebel forces crossed the border from Liberia into Sierra Leone's Eastern Kailahun province. Despite previous NPFL cross-border incursions, a radio announcement shortly after the March incursion, by RUF leader Foday Sankoh, declared this the "start of the RUF rebellion in Sierra Leone" (Harris, 2014, p. 85). The RUF were able to quickly capture Kailahun and expand their movement to Pujehun district (crossing once again from Liberia).

In 1992, discontent among SLA soldiers about "their lack of wages and corruption within the APC government" (Ainley, Friedman and Mahony, 2015, p. 9) culminated in a military coup, under the leadership of Valentine Strasser. The National Provisional Ruling Council (NPRC) was established, led by Strasser, just 27 years old at the time. Despite the looting, arbitrary military rule and summary executions that followed, the coup itself is described by Harris as "initially very popular" (2014, p. 91). It ousted the unpopular President Momoh, presented a possible hope for the end of war, ended shortages caused by APC hoarding and offered "a new beginning" (Harris, 2014, p. 91). However, a progressive return to the "APC political modus operandi" (Harris, 2014, p. 91) kept the fires of conflict stoked. Late 1992 and onwards saw the emergence of "self-defence" (Harris, 2014, p. 97) militias around the country. Of particular significance is the formation of the Kamajors in 1994, formed by Mendes (an ethnic group) in Southern Sierra Leone and led by Sam Hinga Norman, a Mende chief in Bo District. Hinga Norman formed the Kamajors in response to SLA and RUF attacks and encroachment in the south. The Kamajors were "the most successful of the militias" (Harris, 2014, p. 98) and drew heavily

on mythology, charms and psychological weapons in the ritual and practice of their movement.

RUF forces made significant gains in 1995, when they captured the NPRC's "greatest source of domestic revenue, the Sierra Leone Ore and Metal Company (SIERMCO) and the Sierra Rutile mine" (Ainley, Friedman and Mahony, 2015, p. 9). This led to a rapid deployment of a British military force in support of the SLA, and signalled the emergence of the United Kingdom as a serious actor within the war (Ainley, Friedman and Mahony, 2015). The failure to recapture these rebel-controlled assets further led to the arrival of Executive Outcomes (EO), a South African mercenary outfit, contracted to secure Freetown and the captured mining assets under RUF control. Alongside the SLA and Kamajors (who were also trained under Strasser's leadership), "the war was swiftly brought under control" (Harris, 2014, p. 100).

Phase 2: 1996-1999

In 1996, after EO, with help from the SLA and the Kamajors, was able to successfully drive back the RUF once more, presidential elections were held in February and March. Ahmed Tejan Kabbah, a stalwart of Sierra Leone's second major political party, the Sierra Leone People's Party (SLPP), won, despite widespread electoral irregularities. Notwithstanding claims over electoral misconduct, Kabbah's runoff opponent, United National People's Party (UNPP) candidate Karefa-Smart, publicly acceded to Kabbah's presidential victory. Kabbah installed Kamajor leader Hinga Norman as Deputy Minister of Defence, and institutionalised support for the Kamajors, as the Civil Defence Forces (CDF). With no trust in the SLA, Kabbah's SLPP government looked to the CDF as its security force. This "lull in the war in 1996" (Harris, 2014, p. 100) also resulted in peace negotiations (under Julius Maada Bio – current SLPP president of Sierra Leone), that culminated in the Abidjan Accord signed by Foday Sankoh. The Abidjan Accord was signed in November, and contained a ceasefire agreement, blanket amnesty provision, and provisions for demobilisation. Significantly, it did "not specify any governmental positions for the RUF, probably a reflection of its weakness at this point" (Harris, 2014,

105). The sincerity of Sankoh's commitment to peace is often questioned (Harris, 2014), with many claiming his participation in Abidjan to be a "strategy of buying time for his rebellion in retreat" (Harris, 2014, p. 104).

Relations between the SLA and CDF forces worsened, and by March of 1997 armed clashes resulted in the arrest of RUF leader Sankoh. An emerging alliance between RUF rebels and SLA soldiers who "felt marginalised by Kabbah's engagement of the CDF" (Ainley, Friedman and Mahony, 2015, p. 10) prompted an SLA coup in May. This "chaotic and brutal" (Harris, 2014, p. 90) coup brought Major Johnny Paul Koroma to power and gave rise to the Armed Forces Ruling Council (AFRC), composed of soldiers who "had been cut out of the patronage system" (Harris, 2014, p. 106) imposed by Kabbah's preferential treatment towards the CDF. Almost immediately, the AFRC invited RUF to share power, and Sankoh was declared AFRC Vice Chairman and Vice President of Sierra Leone in absentia (he was in Nigeria in detention at the time), and RUF forces joined the AFRC to become part of the "People's Army" (Harris, 2014, p. 106). The AFRC ruled "arbitrarily and with terror" (Harris, 2014, p. 106) and faced both domestic and international enemies. An ECOMOG deployment was sent, at the persuasion of the UK and the US. Despite a second attempted peace process, in the form of the Conakry Peace Agreement, signed by Koroma, peace nonetheless disintegrated. Together with the CDF, ECOMOG forces were able to quickly gain control in Freetown in early February 1998. By March 10th, Kabbah and his government had returned and ECOMOG swiftly secured the majority of the country. Distrust between the AFRC, RUF and CDF forces continued and culminated in the "catastrophic" (Harris, 2014, p. 110) AFRC invasion of Freetown on the 6th of January, 1999. According to Ainley, Friedman and Mahony (2015), this invasion entailed "numerous atrocities" (p. 10) and the murders of "thousands of civilians" (p. 10). According to Harris (2014), "the scale of the extreme violence in a crowded capital eclipsed all previous violence in Sierra Leone" (p. 111). ECOMOG forces drove the AFRC out of Freetown after two weeks of intense fighting. Kabbah returned to

Freetown and renewed efforts, with international support, for a negotiated peace deal began.

Phase 3: 1999-2002

The Lomé Accord was signed between Kabbah's government and the RUF forces, in July of 1999. The Agreement provided a blanket amnesty, established a power-sharing government and called for the establishment of a TRC. However, infractions on both sides impeded peace from taking root once more. Ultimately, Kabbah's regime benefitted from military assistance of the AFRC, CDF and foreign troops, and gained a definitive advantage over the RUF. The RUF kidnapping of 500 Zambian peacekeepers pushed Kabbah to seek assistance from the UN and he wrote a letter to the UN Security Council seeking assistance to bring the RUF to justice – it is against this background that the SCSL was later established. International response to the kidnapping of peacekeepers in May was swift, and RUF, weakened by its military defeats and under the “seemingly more conciliatory” (Harris, 2014, p. 116) leadership of Issa Sesay, re-entered peace negotiations and began disarmament in earnest in April 2001. By January 2002, President Kabbah declared the war officially over, and within the same month an agreement was reached between the government and the UN to establish the SCSL.

Eleven years of civil war in Sierra Leone, characterised by horrific abuses, chameleonic allegiances, fragile hope and persistent brutality, killed tens of thousands of Sierra Leoneans, displaced millions and left close to 400,000 amputated. It disseminated the already weak economy and state infrastructure inherited from a legacy of colonialism, patronage and corruption. According to Ainley, Friedman and Mahony (2015) “bringing about justice in the transition from conflict to peace was therefore a formidable task” (p. 11).

Post-War Sierra Leone

This final section describes the immediate post-war landscape in Sierra Leone, and details the establishment of three post-war peacebuilding and peace-making processes, established to help end

the war and cement peace, and which are critical to this thesis's subsequent empirical investigation of the relationship between the TRC and ex-combatant community: the TRC, the SCSL, and the DDR process in Sierra Leone. While each institution and programme is introduced and described below, an analytical assessment of the challenges of their implementation and the interplay between them is reserved for Part Three of this thesis.

The Truth and Reconciliation Commission (TRC)

The need for the Truth and Reconciliation Commission of Sierra Leone was first formally laid out in the Lomé Agreement. The TRC ultimately came into operation in 2002, alongside the SCSL, which was established after the Commission. The official mandate of the truth commission can be found within the TRC Act of February 2000. The Lomé Agreement (1999) called for a TRC that would “provide a forum for both the victims and perpetrators of human rights violations to tell their story, get a clear picture of the past in order to facilitate genuine healing and reconciliation” (Article XXVI). The TRC Act of 2000 established the objects of the Commission, mandating it to “create an impartial historical record” (Part III, Article 6) of the war. A final summary of the TRC's purposes is housed within the Commission's own Final Report of 2004 which reemphasised the TRC's mandate to “promote reconciliation by providing an opportunity for victims to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators” (Vol. 1, Ch. 1, p. 25). Despite the enactment of the TRC Act in 2000, the Commission itself was not formally established until July 2002, and operated between 2002 and 2004. Its Final Report was published in October 2004.

While the Lomé Agreement forms the formal genesis of the TRC, the seed of its germination can be traced back to two human rights organisations: Article 19, an international human rights organisation, and Forum of Conscience, a local human rights organisation. First calls for a TRC in Sierra Leone date back to July 1998, in a press release

by Article 19, which called for “the establishment of a Truth Commission in order to ascertain the true facts of the conflict and to assist efforts to find the right balance between the twin requirements of justice and reconciliation” (Lunn and Caulker, 2000, Appendix A). National consultations continued through 1998 and 1999 between members of civil society and international actors, notably the UN, to help develop a viable path to peace in Sierra Leone, and the role of transitional justice therein. The TRC Working Group, a constellation of local civil society actors, was established in August 1999, with Forum of Conscience’s John Caulker at its helm (TRC Report, 2004). The TRC Report (2004) describes the purpose of the Working Group as

to involve Sierra Leonean civil society in the TRC process and to ensure that civil society’s concerns would be addressed in the design of the TRC Act and in the ways in which the Commission was going to undertake its task (Vol. 1, Ch. 5, p. 157).

Both local and international members of civil society therefore played an instrumental role in the pursuit of restorative transitional justice in Sierra Leone.

Broadly speaking, the TRC had two phases: its preparatory phase, and its operational phase. The preparatory phase of the TRC focused primarily on public education and awareness raising efforts. The operational phase of the TRC comprised its deployment and report writing phases, between November 2002 and October 2004 (Williams and Opdam, 2017). Statement collecting took place over four months, and was completed in March 2003. The TRC collected 7,706 “human rights narratives” (TRC Report, 2004, Appendix 1, p. 3) during its statement-taking work. Hearings began in April 2003 (after a one-week delay) and ended in early August. During the hearings phase of the TRC, one week was devoted to each district for public hearings. This included one day of closed hearings. These hearings were held in district headquarter towns. Lastly, towards the end of its mandate, the TRC launched a National Vision Campaign “calling for contributions from the people of Sierra Leone on their ideas and inspirations on the future of their country” (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 163).

The TRC had a hybrid composition comprising seven Commissioners, three of whom were international and four Sierra Leonean nationals. The three international Commissioners were selected by The Office of the High Commissioner for Human Rights (OHCHR). The Commission was chaired by Bishop Dr. Joseph Humper, a staunch SLPP supporter, despite OHCHR's recommendation to appoint Italian Bishop George Biguzzi (Mahony and Sooka, 2015).

The Special Court for Sierra Leone (SCSL)

Ultimately, the TRC operated alongside the Special Court, a hybrid ad hoc tribunal, set up after the Truth Commission was proposed and its mandate was enacted. It was designed to bring to justice those bearing the greatest responsibility for Sierra Leone's civil war. The composite character of Sierra Leone's transitional justice landscape warrants a brief description of the SCSL, and the implications of this are further treated within the analysis of this thesis, in Part Three. As highlighted above, the Court was established after the Government of Sierra Leone requested assistance from the UN to create the world's first hybrid tribunal, when renewed fighting threatened to derail the Lomé Peace process. In August 2000, the UN Security Council passed a resolution requesting the Secretary General to negotiate the establishment of an independent special court (Harris, 2014). On the 16th of January 2002, an agreement between the Government and the UN was reached, for the establishment of the SCSL. Thirteen indictments were made by the SCSL, against leaders of the RUF, AFRC, CDF and Charles Taylor from Liberia. Indicted CDF leaders were Allieu Kondewa, Moinina Fofana and Samuel Hinga Norman. RUF indictees were Foday Sankoh, Sam Bockarie, Issa Sesay, Morris Kallon and Augustine Gbao. Lastly, from the AFRC Alex Brima, Brima Kamara, Santigie Kanu and Johnny Paul Koroma were subject to SCSL indictment. The indictments of both Samuel Hinga Norman and Issa Sesay has been characterised by some as unfair due to their participation in efforts to end the war (Harris, 2014). The first of these thirteen indictments was brought before the Court in March 2003. By 2013, ten persons had been brought to trial – out of the remaining three

indictees, two died prior to prosecution, and the third, AFRC leader Johnny Paul Koroma remains missing (and may also have died, though this remains unverified). The most famous of the Court's indictments remains, however, that of then-president of Liberia, Charles Taylor. The Special Court was the first modern international tribunal to indict, try and convict a sitting head of state. This set one of many precedents during the work of the Court, including forming the first international tribunal to prosecute and convict persons for the use of child soldiers, for attacks directed against UN Peacekeepers and for establishing acknowledgement of coerced consent by recognising forced marriage as a crime against humanity. In 2013 the SCSL completed its mandate and transitioned to a residual mechanism, the Residual Special Court for Sierra Leone (RSCSL).

Disarmament, Demobilisation and Reintegration (DDR)

Lastly, a brief summary of the Disarmament, Demobilisation and Reintegration (DDR) process in Sierra Leone deserves attention. Analysis in Part Three of this thesis, in particular Chapter 7, reveals the impact of the pre-existing, and concurrently operational DDR programme in Sierra Leone, on the justice expectations and experiences of ex-combatants. Additionally, as highlighted above, initial attempts at DDR during the civil war were not only unsuccessful, but are held to have contributed to the war's resurgence. An understanding of this component of peace-making in Sierra Leone therefore holds relevance within this larger examination of ex-combatants and transitional justice. DDR in Sierra Leone occurred in three phases, and was significantly interrupted by episodes of violence and renewed war during phases one and two. While phase one began in 1998, the first provisions for a demobilisation programme were included in the Abidjan Accord of 1996, which called for the demobilisation of many combatants, including part of the SLA. Significantly, it did not include the Kamajors within its ambit of targeted demobilisation (Harris, 2014). Harris argues that this was a reflection of the distrust between Kabbah and the SLA, and a move to further institutionalise the CDF, and dismantle the SLA. Faced with "the threat

of DDR hanging over the SLA” (Harris, 2014, p. 106) tensions between the CDF and SLA quickly rose, and ultimately culminated in the 1997 military coup. Phase one of DDR began in 1998 and was largely unsuccessful, with only 3,000 combatants registering for the process, which was subsequently brought to a halt with the resumption of hostilities in December. The Lomé Peace Agreement called for a DDR programme once again, and though more successful than phase one (demobilising just under 20,000 combatants), was once again thwarted by the kidnapping of peacekeepers in May 2000. Finally, DDR proceeded in earnest in its third phase, in 2001, and was completed in 2002, disarming approximately 50,000 combatants. Funding shortfalls have left a bitter legacy in relation to DDR’s longer term reintegration component in Sierra Leone, with this particular component commonly held to have been poorly and only partially implemented. Research on DDR in Sierra Leone additionally fails to identify a concrete correlation between DDR participation and subsequent reintegration outcomes among ex-combatants (Humphreys and Weinstein, 2007; Sesay and Suma, 2009). A small but growing sub-field of research, calling attention to the nexus between DDR and transitional justice, has started to take root (see for instance Kilroy, 2014; Sriram and Herman, 2009; and Sriram, 2013). Such work highlights the ways in which these processes interact with and affect one another, and brings to light the various complementarities and frictions between them. This thesis contributes to the crystallisation of this sub-field, uncovering empirically the ways in which DDR and the TRC in Sierra Leone intersected, among the ex-combatant population, despite the absence of a formal relationship between them.

Conclusion

Part One of this thesis provides the backbone of this investigation – it has detailed the research puzzle under examination in this study, that of the relationship between ex-combatants and the TRC in Sierra Leone, and the two axes along which this relationship is explored (outlined in Chapter 1). Chapter 2 has elaborated the research design and methods used to achieve this empirically detailed exploration.

Chapter 3 has situated the work of this thesis within the larger discourse of transitional justice and the case of Sierra Leone, to provide necessary theoretical and contextual background. Part Two of this thesis articulates the theoretical and conceptual frameworks that underpin the empirical analysis within Part Three of this thesis. Part Two comprises two chapters (Chapters 4 and 5), the first of which elaborates the theoretical frameworks along the dimensions of transitional justice rhetoric, ritual and reality, that this thesis critically applies. Chapter 5 then goes on to construct two frameworks, on institutional engagement and localised impact evaluation, which are empirically applied to Sierra Leone's TRC, through the lens of ex-combatants, in Chapters 8 and 10, respectively.

Part Two: Theoretical Frameworks

Part Two of this thesis presents the theoretical underpinnings that inform this thesis's critical examination of the rhetoric, rituals and reality of transitional justice which it applies through a localised investigation of the expectations, experiences and impacts on, ex-combatants in the case of Sierra Leone's TRC. It contains two chapters (Chapters 4 and 5), the first of which (Chapter 4) forms the critical theoretical scaffolding of this thesis, dedicated to elaborating the dimensions of transitional justice rhetoric, rituals and realities. This illuminates the problematic normative foundations of transitional justice that produce unforgiving binary identities for its local participants, based on external and Western conceptualisations of justice. It engages with the questions of whose justice underpins transitional justice and how this is translated onto the field's practice. The second chapter in part two (Chapter 5) constructs two frameworks which are subsequently empirically applied to the case of Sierra Leone's TRC, through the localised lens of ex-combatants. The first framework presented is one of institutional engagement, and is heavily informed by the discourse of participatory approaches from within the field of development studies, and which has only recently begun to see expression in transitional justice scholarship. It separates local institutional engagement between the TRC and its local participant populations along three dimensions: ownership, inclusion and participation, and seeks to unpack some of the pervasive shortcomings within the nebulous discourse of participatory programming. The need for participatory programming in post-conflict and development processes has become mainstreamed, yet criticisms around what participation is, how it can and should be achieved, and questions around its formal and formative application have grown. Chapter 5 of this thesis advances conceptual clarity towards the nebulous character of participatory programming, through the development of a framework of institutional engagement. Chapter 8, within Part Three of this thesis, highlights the gap between the prescription and practice of participatory programming rhetoric with its empirical analysis of ex-combatant non-participation in the TRC, through the application of the institutional engagement framework

developed in Chapter 5. Secondly, a localised framework for evaluating impact is constructed in Chapter 5, arguing for the assessment of transitional justice effects on the level of the local. The argument is that impact is more meaningfully assessed when the success or failures of transitional justice are situated among the levels of the local with which such processes seek direct engagement.

Chapter 4

Rhetoric, Ritual and Reality

Introduction

Chapter 4 details the theoretical framework of this thesis, and underpins the normative critique of the transitional justice and truth commission identity framework at the core of this research. It problematises the static, unforgiving and unaccommodating binary identity framework of transitional justice, normatively constructed at the level of rhetoric, institutionally expressed at the level of ritual, and practically implemented at the level of reality. These identities, of victims versus perpetrators, constrict the scope and potential impacts of transitional justice on the ground, the implementation of which remains fundamentally straightjacketed by this binary identity framework. The empirical investigation of the relationship between perpetrators and the TRC in Sierra Leone, in Part Three of this thesis showcases the practical challenges and shortcomings of this static identity framework, theoretically developed within this chapter. This chapter proceeds in the following parts: firstly, a discussion on the terms 'identities' and 'experiences' advances one of the contributions of this thesis, through acknowledging the complex and shifting nature of lived conflict actions and experiences, through the considered terms introduced and applied throughout this research. Thereafter the normative plane of transitional justice and the question of whose justice has constructed this field which has become an integral and inevitable component for societies transitioning away from periods of conflict or repression is highlighted. Criticisms around the Western paradigm of transitional justice have come to dominate the discourse. The binary construction of identities within the field however, have received far less critical examination, and it is this subsequent discussion that anchors the core argumentation and contributions of this thesis. As will be argued in this chapter, transitional justice does not only demand accountability according to a particular (Western) standard and definition of justice, it additionally defines and

categorises its participants into the rigid identity framework of either evil perpetrators or innocent victims. A critique of this binary and hierarchical identity framework, that not only pits victims against perpetrators, but privileges victims in the process, calls attention to the reality of blurred lines in the case of lived conflict experiences by individuals. It also highlights the logic of assumed perpetrator participation within the particular transitional justice mechanism of truth commissions, which this thesis constructs and subsequently empirically examines in Chapter 7. The role of innocence, blame, acknowledgement and motivations within this binary identity framework is subsequently addressed. The issues of guilt and punishment within the structure of truth commissions is thereafter interrogated and an argument is made for a broader understanding of punishment that is empirically explored in Chapter 9. Lastly, both the positive and negative implications of a nuanced conceptualisation and application of victimhood in truth commissions are laid out. The theoretical framework developed in this chapter, building on seminal critical work that has begun to emerge around complex identities in transitional justice, advances this emerging branch of transitional justice scholarship. It underpins the empirical examination of ex-combatants in relation to the TRC in Part Three of this thesis, and in particular the multiple sources and processes of exclusion this population was confronted with, by precisely the mechanism of transitional justice implemented in order to heal, restore and reconcile Sierra Leoneans in a broadly inclusive manner.

Identities versus Experiences

Throughout this thesis, the perpetrator identity is distinguished from the perpetrator experience. This distinction is employed as a discursive tool to draw clear and consistent attention to the problematic disjuncture between the construction of identity for ex-combatants by transitional justice, against the constellation of identities experienced by ex-combatants.

In line with Arthur's (2010) definition, this thesis treats identity as an individual's "membership in social groups" (p.4). Group membership is

neither “timeless” nor “unchanging” (Arthur, 2010, p. 5) and can be chosen by the individual or “ascribed to them by others” (p. 4). Arthur (2010) further describes identities as “social categories that rely on rules of membership that determine who is included” and stresses that “identity groups are probably infinite” (p. 4).

Ex-combatants and perpetrators are the two focal (and intersecting) identities under examination in this thesis. Previous sections have already defined both these social categories and highlighted the TRC’s treatment of ex-combatants as belonging to its considered perpetrator population. According to Aiken (2008), “one’s identity as a perpetrator (or victim) depends upon one’s inclusion within a particular group rather than upon individual characteristics or conduct” (p. 11). In Sierra Leone’s TRC, armed group membership was used as a significant criterion to assign the identity of perpetrator onto individuals. However, as shown throughout this thesis, the binary identity framework of transitional justice, of victims and perpetrators, fails to accommodate the diverse and intersecting universe of identities experienced by conflict-affected individuals (and ex-combatants in particular) in reality. To distinguish between the prescribed and personal identities of ex-combatants and to highlight the problematic impacts of the mismatch revealed between them throughout this thesis, the terms identity and experience are employed. This distinction is used to capture the limitations of recognition within the industry of transitional justice, and of the TRC in Sierra Leone specifically.

One of the overall contributions of this thesis is the argument that there is the need to accommodate the complex identities of the individual within transitional justice. The industry of transitional justice recognises only a limited number of identities and prescribes them in absolutes. The personal fabric of an individual’s (inter)actions is designated in singular terms. This oversimplifies conflict experiences, which in reality, are not so neat. In her critique of the normative participatory limitations placed on perpetrators in truth commissions, Nwogu (2010) showcases this by suggesting that “truth commissions are more likely to contribute to societal repair if they view the condition of both victim

and perpetrator not as a status” “but as a temporary state that any person could enter and from which such a person can exit” (p. 286). She uses the terms status and state to refer to what this thesis frames as identity and experience, respectively. However, while these terms embody the same critique of the binary participant identities prescribed by truth commissions, the terms identity and experience are better suited to capture this distinction. For the sake of simplicity, the distinction between identity, as static and mono-dimensional, and experience, as shifting and multi-dimensional, is readily apparent. The terms status and state do not lend themselves as readily to these distinctions – status, discursively, has strong relative associations, which shift over time. This may cause conceptual confusion in practice, which the terms identity and experience aptly overcome. To best capture the very same critique and distinction that Nwogu (2010) draws on, this thesis therefore uses the terms identity and experience. The use of the term experiences within this thesis advances its core argumentation around both the absence of, and consequently the need for, meaningful accommodation of diversity among conflict-affected transitional justice participants. The term experiences enjoys conceptual flexibility that captures the possibility and reality of complex conflict histories contained within the individual.

This thesis argues that to designate a solely perpetrator identity onto an individual based on their armed group membership restricts the universe of what constitutes injustice to the experiences of designated victims only. This evidences the primacy given to this (similarly constructed) identity category (of victims), and fails to recognise the injustices that may have led, or forced, many ex-combatants to take up arms in the first place (a reality that is amply empirically demonstrated in Chapters 7, 9 and 10). This restricted application of justice, and definition of injustice, does not acknowledge the underlying grievances that caused the war, and instead takes conflict as the starting point for truth reclamation. Put simply, it fails to acknowledge the motivations that led to war in the first place. This narrow definition of justice, stemming from the unaccommodating binary identity framework produced by transitional justice, does injustice to the ex-combatant

population, whose own experiences do not receive meaningful inclusion in the conceptualisation of justice propagated by transitional justice in general, or truth commissions in reality. Reframing personal histories of war away from static identities, to complex experiences, is a necessary step in the meaningful expansion and local accommodation of transitional justice towards the populations and contexts with which this discourse engages and affects. This thesis argues that the industry of transitional justice needs to be more responsive to the intersecting identities among its participants rather than limited by a set menu of static identities to be occupied and to which participation is constrained to fit. These issues of transitional justice hierarchies along the dimension of constructed identities and motivations, are analytically interrogated in subsequent sections of this chapter.

This thesis interrogates the normative foundations of transitional justice in several ways. It exposes, through the personal narratives of ex-combatants, the disjuncture between the macro-level model of globalised transitional justice against the micro-level realities of local justice needs, and experiences of injustice. The disparities between rhetoric and reality are stark, and reveal problematic binaries on the normative and institutional levels that constrain the meaningful contributions that truth commissions seek to achieve in practice.

The next section of this chapter begins the critical examination of the normative foundations within the field of transitional justice in this thesis, by highlighting the ubiquitous space that transitional justice has come to occupy as a necessary tool for transition, against its particular Western normative foundations. The contrast between transitional justice as a universalised need against its narrow and externally constructed agenda has become a dominant strand of criticism within the field.

A Western Paradigm of Transitional Justice

Assumptions around why transitional justice is both necessary and inevitable for societies transitioning from periods of conflict or

repression have invaded the field (Dube, 2011; Lutz, 2006; Mutua, 2015; Teitel, 2003). Transitional justice has come to be “regarded as inevitable and commonplace for anyone wishing to address the issue of past violations” (Dube, 2011, p. 177). According to Mutua (2015) “transitional justice has become an article of faith as a catalyst for reclaiming societies in political and social imbalance and dysfunction” (p. 1). The need for transitional justice, with its underpinnings in the broader human rights movement, has become universalised (Lutz, 2006; Mutua, 2015; Skaar, 2018). The doctrine of transitional justice has strong normative foundations stemming from the broader human rights movement in which the field is anchored (Mutua, 2015; Madlingozi, 2010), that squarely dictate the necessary measures for transitioning from conflict to liberal democracy. Yet, while “the concept of transitional justice has operated on the principle that transitional justice and its underlying goals are by definition good” (Dube, 2011, p. 181), these normative underpinnings are increasingly challenged by critics who highlight the practical limitations of such universalising practices (Brudholm, 2008; Dube, 2011; Lutz, 2006; Sikkink and Walling, 2006). One dominant strand of criticism towards the normative deficits in transitional justice challenges the universality of the conceptualisation and demands of transitional justice (Mutua, 2015, Lutz, 2006; Sikkink and Walling, 2006). The language of rights and obligations inherent to transitional justice are critiqued as “particularly liberal and a western construct” (Mutua, 2015, p. 3). According to Lutz (2006) “external intervention has contributed to the standardisation of transitional justice goals and methods. An understanding of what it takes to achieve accountability for past violations permeates the international community” (p. 333), which has produced a “normative milieu” (p. 332) predicated on the necessity of accountability. McEvoy (2007) describes the field of transitional justice as “overdominated by a narrow legalistic lens” (p. 413) that is “both state-centric and ‘top-down’” (p. 421). This is echoed by Madlingozi (2010) in his description of transitional justice as one component of the broader human rights discourse, whose “operation is, despite rhetoric to the contrary, overwhelmingly top-down” (p. 213). It can therefore be surmised, that

more than a choice or right, transitional justice has become the state's duty and responsibility, to be pursued in a particular way - in line with the normatively constructed definition of what justice is and how it is to be achieved. To be clear, within this thesis, I am not arguing against the need for (transitional) justice, but rather contributing to the critique of treating the definition of justice as a universal standard. While the need for justice, and transitional justice in particular, has solidified, flexibility in understanding what justice is, and a contextually-driven understanding of the justice needs among the local, stands to advance the contributions of this discourse away from empirical ambivalence, and towards meaningful and positive impact. Mutua (2015) elegantly posits that "dogmatic universality is a drawback to an imaginative understanding of transitional justice" (p. 5).

Such criticisms of the western and normative assumptions within transitional justice usefully call into question what transitional justice achieves and why it is deemed desirable, necessary or even inevitable. In essence, the problem with justice is that who defines it and how, dictates and limits the universe of possible injustice accordingly.

Despite increasing recognition and criticism of the western paradigm that has universalised transitional justice, and prompted responses pulling towards 'local' approaches, one normative dimension remains under-examined – the normative production of transitional justice participant identities. Overwhelmingly, transitional justice research and advocacy is steeped in binary presentations of affected populations as either simple victims or perpetrators. The discourse is replete with such archetypal assumptions, and following from this, an unchallenged need for forgiveness or repentance, which transitional justice is designated as uniquely suited to deliver. It is to this question, of the normatively produced binary identity framework in transitional justice, that the next part of this chapter turns.

Producing Perpetrators: binary identities in transitional justice

The doctrine of transitional justice not only prescribes what is good and necessary for societies emerging from violence to achieve repair and progress; it also diagnoses those populations, defining who is good and deserving of justice, as well as who is bad and in need of punishment or forgiveness.

Two identity categories dominate the transitional justice participation discourse: victims and perpetrators. These constructed identities are the focal point of transitional justice local engagement, around which it defines both its participants, beneficiaries and overall ambitions. According to Borer (2003), most of the human rights literature, within which transitional justice is situated, “refers almost solely to victims and perpetrators” (p. 1116). This binary focus is true for truth commissions in particular, empirically established in Chapter 6, which demonstrates that in the case of Sierra Leone, the truth commission focused almost exclusively, within its institutional rhetoric, on these two categories.

Distinct, Homogeneous and Diametrically Opposed Identities

Within the restricted conceptual treatment of conflict experiences as binaries of victim and perpetrator identities, these categories are generally referred to as: distinct (victims *and* perpetrators), homogenous (*the* victims and *the* perpetrators), and diametrically opposed (victims *versus* perpetrators) (Borer, 2003).

Borer (2003) conceptualises the institutional treatment of victims and perpetrators in transitional justice as two “concentric circles” (p. 1089) (see Figure 1 below). McEvoy and McConnachie (2012) reinforce this, showcasing that the treatment of these binaries as “distinct categories” (p. 532) reflects one of several problematic identity assumptions that transitional justice has inherited from the discourse of western democratic victimology. Bernath’s work (2016), examining practices of formal inclusion against the realities of participatory exclusion in Cambodia highlights the institutional preference for an “either-or narrative” in transitional justice, wherein conflict-affected individuals

are treated as “either innocent victims or complicit actors” (p. 60). Borer (2003) emphasises the treatment of victims and perpetrators as distinct in transitional justice, in her examination of South Africa’s TRC, where she argues that the TRC “almost always employed the binary approach of victims and perpetrators” (p. 1100). Madlingozi (2010) describes this presentation of affected populations as a “theft” (p. 211) of agency, wherein “entire post-war populations (are viewed) either as traumatised victims, lacking the ability to make decisions about the future, or as people driven by a destructive psychosis that renders them incapable or morally unworthy of positive contributions to peace-building” (Lundy and McGovern, 2008, p. 278).

The critical literature on identity construction in transitional justice highlights that the individual experiences of those affected by conflict within the realm of the local “often become homogenised through dominant narratives” (Humphrey, 2002, p. 116). These binary categories are perceived of as not only entirely separate, but internally identical, whereby all victims and all perpetrators are the same (Borer, 2003). This homogenisation abstracts the complexity of individual experiences into an idealised group identity, of good and evil. The tendency within transitional justice and the broader human rights movement, “to articulate good and evil in abstract terms is extremely limiting” (Madlingozi, 2010, p. 212) as it homogenises experiences under an “internationally sanctified vocabulary” (Kennedy, 2002, p. 112) of binary identities. This homogenisation “corresponds to a narrowing vision of complex phenomena” that remains largely unchallenged (Bernath, 2016, p. 51).

Idealised Identities

The homogenisation of experiences, within the binary framework of victims and perpetrators disregards the possibility for complexity, ambiguity or nuance among conflict-affected individuals. The absence of complexity within this binary identity structure also idealises these categories. Victims and perpetrators are “reified” (McEvoy and McConnachie, 2012, p. 527), “essentialised” (Nwogu, 2010, p. 286) and perceived of in archetypal (Nwogu, 2010) terms of good and evil;

innocent and guilty. This significantly restrains their individual voices within the truth-telling space offered by truth commissions (Nwogu, 2010). This shortcoming is further expanded below.

Finally, in constructing and limiting participation and benefits to this binary (of victims and perpetrators), transitional justice presents these identities as diametrically opposed (Borer, 2003; McEvoy and McConnachie, 2012; Moffett, 2016). According to McEvoy and McConnachie (2012), the presentation of victims as the “mirror” (p. 527) or “binary opposite” (p. 528) of the criminal or perpetrator is even “more pronounced” (p. 532) in transitional contexts than in domestic justice, due to the moral superiority that victims are imbued with, and around which the integrity of a successful transition is constructed (McEvoy and McConnachie, 2012; Moffett, 2016). The tension inherent to this binary identity construction permeates core debates in transitional justice on truth versus justice, amnesty versus prosecution, and perpetrators versus victims (Borer, 2003).

Transposing conflict experiences into simple binary identities that are treated as distinct, homogenous, archetypal and diametrically opposed has several implications, which are discussed in more detail in subsequent sections. In particular, their treatment as diametrically-opposed identities “narrows the notion of victims’ rights or needs so they become intrinsically linked to the punishment of perpetrators” (McEvoy and McConnachie, 2012, p. 527). In other words, by constructing them as mirror opposites, honouring victims necessarily requires punishing perpetrators (McEvoy and McConnachie, 2012). The dispensation of justice, within transitional justice, is therefore constructed as a zero-sum game, between the idealised categories of victims and perpetrators. Defining victims and perpetrators as binary opposites additionally risks (re)producing power asymmetries through a continuation of processes of ‘othering’ that are widely understood to cause conflict in the first place (Bernath, 2016; Nwogu, 2010).

Power Asymmetries

Bernath (2016) describes the diametric treatment of victims and perpetrators as a framework which reproduces processes of “othering”

(p. 62) that promotes exclusive group identities anchored in antagonism; of us versus them. Nwogu (2010) elaborates the power asymmetries that transitional justice, and truth commissions specifically, produce as a “reversal of the power dynamic” (inverting prior power imbalances that disadvantaged the ‘victim’) which “undermines the objective of truth commissions to help prevent repetition of the past” (p. 282). According to Nwogu (2010), it is the combination of the primacy placed on victims in transitional justice, as the starting point for truth reclamation and the moral anchor for societal repair (McEvoy and McConnachie, 2012), and the failure of truth commissions to acknowledge perpetrator suffering or motivations (elaborated below), that (re)produce such power asymmetries. She argues that despite the “aim to integrate rather than alienate” (Nwogu, 2010, p. 281), truth commissions, in practice, privilege victim participation and narratives. This structural participation shortcoming means that the “elevation of one community over another...is replicated rather than dissolved” (Nwogu, 2010, p. 283). This is dangerous and means that the type of truth and identities produced by these bodies “potentially serves as a weapon of oppression” (Nwogu, 2010, p. 282) that may “enable (future) political violence and mass victimisation” (Bernath, 2016, p. 47) along new fault lines of inequality. By constructing a “discourse that presents two distinct homogenous groups as mutually exclusive: perpetrators versus victims or combatants versus victims” (Skaar, 2018, p. 412), truth commissions can in fact exacerbate “the negative relationship” between these constructed groups, and compound the “structural factors that may have contributed to violence” in the first place (Skaar, 2018, p. 412).

Transitional justice as victim-centred

Madlingozi (2010) also draws attention to the production of power asymmetries in transitional justice, albeit unintentionally. In his critique of the externalised representation of victims by transitional justice entrepreneurs, he argues that the burden of transitional justice requires “more than being nice to victims or adhering to rigorous scientific and ethical standards. It should also, if not principally, be

about redistribution of resources and power” (Madlingozi, 2010, p. 225). Madlingozi clearly belongs to the dominant cadre of transitional justice scholars that endorses victim centrality in transitional justice endeavours, and explicitly acknowledges that, in order for transitional justice to truly be victim-centred, it not only should, but must, redistribute power and resources in their favour. In his support for expanding the victim agenda of transitional justice, Madlingozi (2010) highlights the centrality of victimhood within the field, but fails to recognise the problematic implications this has on questions of victimhood inclusion, and the possibly detrimental consequences of producing new power asymmetries that arise from this privilege. He fails to consider the issue of what the “genuine empowerment of the victim” (Madlingozi, 2010, p. 208) means for the perpetrator. This thesis, in examining the TRC experiences of ex-combatants, advances some empirical answers to this necessary but neglected line of questioning.

The binary infrastructure of conflict experiences in transitional justice, producing archetypal victims and perpetrators, raises the important question of privilege – how are these dichotomised categories treated? In Borer’s (2003) critique of South Africa’s TRC, she raises the point that the binary identity structure of the TRC there led to “much discussion about whether the TRC was victim friendly or perpetrator friendly” (p. 1089).

Transitional justice is advanced as a victim-centred enterprise (Bernath, 2016; Freeman, 2006; McEvoy and McConnachie, 2012; Moffett, 2016; Skaar, 2018). Humphrey (2003) highlights that “the victim has been put at the centre of the states’ post-atrocity strategies to reform governance, rehabilitate state authority and promote reconciliation” (p. 171). According to Skaar (2018), the focus on victims within truth commissions specifically “reflects the trend toward more focus on victims of human rights violations around the turn of the century” (Skaar, 2018, p. 404). McEvoy and McConnachie (2012) reinforce the primacy of victim needs in transitional justice, highlighting that “recognition of the needs and rights of victims is often invoked as

perhaps the key rationale for the existence of” (pp. 527-528) transitional justice processes. Furthermore, according to Nwogu (2010), the “produced victim” is the “starting point for truth reclamation” within truth commissions (p. 280). The victim is the protagonist, and the perpetrator merely a supporting character within the hegemonic narrative of conflict that truth commissions write. Madlingozi’s (2010) critique of the Western normative underpinnings of transitional justice aptly showcases the hegemonic position of victims, within transitional justice scholarship and practice, as the necessary and appropriate beneficiaries of transitional justice. Madlingozi (2010) asserts that “transitional justice experts legitimise their existence on the basis of speaking about and for victims” (p. 208). According to Madlingozi (2010), the “core task” (p. 210) and “ultimate goal” (p. 218) of transitional justice is to “contribute to the transformation of the political subjectivity of victims in ways that enable them to engage as active citizens” (p. 209)). Madlingozi’s (2010) work showcases the dominant trend in transitional justice scholarship to focus on examining “divergences between rhetorical and genuine commitments to victims in transitional justice processes” (Bernath, 2016, p. 47). The “victim-centredness” of transitional justice itself receives far less critical attention (Bernath, 2016, p. 47).

The centrality of victims within transitional justice highlighted above “raises questions as to who is recognised as a victim and which voices are prioritised” (Moffett, 2016, p. 148). Yet, critical examinations around the “political and social construction of victimhood is only tentatively emerging’ (McEvoy & McConnachie, 2012, p. 527). A small body of scholarship has begun to critically examine the production and practice of the binary identities inherent to transitional justice, and the challenges that emerge from the centrality of victims within this discourse (Bernath, 2016; Borer, 2003; McEvoy and McConnachie, 2012; Moffett, 2016; Nwogu, 2010). The next section of this chapter provides an analytical overview of this emerging body of critical transitional justice scholarship, to which this thesis directly contributes.

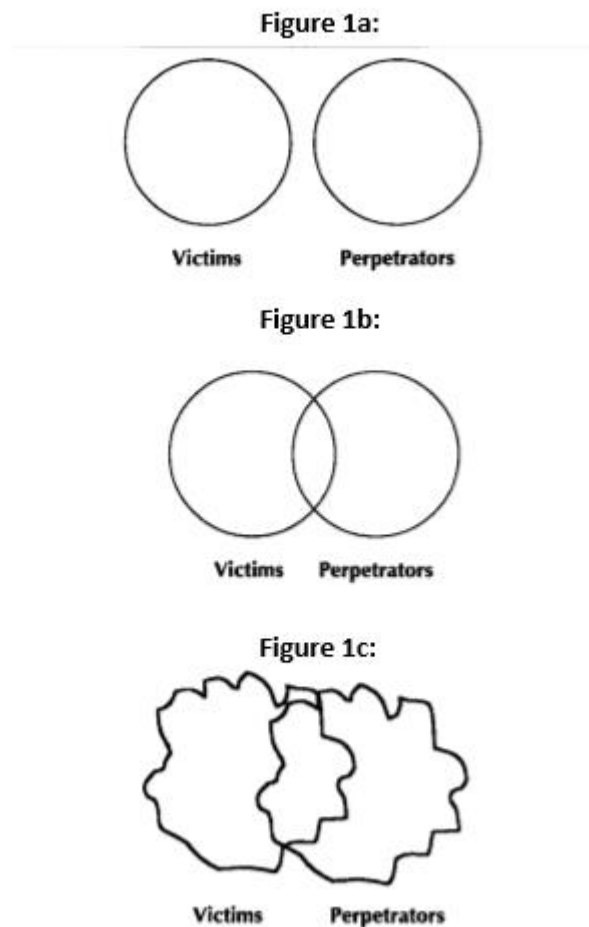
Breaking the Transitional Justice Binary

A sub-field of critical transitional justice studies is beginning to crystallise. This work unpacks and problematises the normative production of binary participation in transitional justice, and the hierarchies this imposes on its structures, processes, impacts and effectiveness (Bernath, 2016; McEvoy and McConnachie, 2012; Moffett, 2016; Nwogu, 2010). According to McEvoy and McConnachie (2012) there is a “mismatch between the rhetoric and reality” (p. 528) of affected population experiences in transitional justice. This thesis contributes directly to this growing critical discourse, examining the rhetoric and reality of perpetrator experiences through the lens of the restrictive and hierarchical binaries imposed by the TRC in Sierra Leone.

This critical scholarship coalesces around one crucial transitional justice shortcoming; the reality of lived conflict experiences does not conform to the simple binary identity structure imposed by transitional justice. In constructing the group, the individual has been lost, subsumed into the static rhetoric of the innocent victim, in need of saving, at the cost of the guilty perpetrator, in need of punishment.

Figure 1 (below) in this thesis is taken from Borer’s (2003) presentation of the victim and perpetrator identities in transitional justice. It is composed of three figures (Figures 1a-1c) and taken directly from her work (Borer, 2003). Borer (2003) contrasts the presentation of victims and perpetrators as distinct, homogenous and diametrically opposed against the complex realities “on the ground” (p. 1089) through the following visualisations:

Figure 1 (taken from Borer, 2003):



The first of Borer's (2003) visualisations, Figure 1a, reflects the normative construction of the victim and perpetrator identities within transitional justice. Though he speaks exclusively on behalf of victims, Madlingozi (2010) nonetheless highlights the practice of transitional justice to externally categorise, define, theorise and package its local participants and beneficiaries. The normative construction of victim and perpetrator identities put in place by the "transitional justice industry" (Madlingozi, 2010, p. 225) has its roots in the broader human rights movement, which, according to Moffett (2016), "by itself fails to capture the larger complex web of victimisation and responsibility that characterises collective violence" (p. 162).

Figure 1b (Borer, 2003) depicts the institutional treatment of these categories, constructed on the basis of Borer's (2003) analysis of

South Africa's TRC. Bernath's (2016) analysis of "complex political victims" in the Extraordinary Chambers in the Courts of Cambodia (ECCC) validates this institutional model of participation in transitional justice. In her analysis, Bernath (2016) reveals that formal recognition of victimhood for certain perpetrators was not met with practices of meaningful participation for them (formal inclusion versus practical exclusion). she contrasts the formal inclusion of "complex political victims" (Bernath, 2016, p. 46) against their practical exclusion within the ECCC.

Finally, Figure 1c (Borer, 2003) reflects more closely the lived complex realities of individual conflict experiences. The uneven lines in figure three indicate "that these groups are not as homogenous as we might think...not all victims are the same, nor are all perpetrators the same" (Borer, 2003, p. 2002). According to Borer, Figure 1c differs from Figures 1a and 1b in two significant ways, and in so doing, more adequately visualises the complexity of conflict experiences. Firstly, the uneven lines of Figure 1c acknowledge heterogeneity within both groups. Secondly, the groups are no longer seen as "separate and distinct" but rather their overlap is recognised (Borer, 2003, p. 2003). Building from Borer's visual depiction of conflict experiences presented in Figure 1, this thesis constructs a fourth visualisation (Figure 5) of conflict experiences, using empirical data from Sierra Leone. Figure 5 can be found in Chapter 9. It highlights that in the case of Sierra Leone one consistent limitation to Borer's (2003) representations of conflict experiences within transitional justice, is that they do not adequately reflect the degree of overlap between experiences of victimhood as shared by ex-combatants. This has been strongly and consistently revealed in the empirical data collected throughout this research.

Blurred Lines

In contrast to the "easy assumption" (McEvoy and McConnachie, 2012, p. 531) of transitional justice that positions victims and perpetrators as static, separate and homogenous, scholars such as McEvoy and McConnachie (2012) highlight that, in reality, individuals can, and do, move between these experiences. "People can be either

victims or perpetrators at different times – these are not static categories” (McEvoy and McConnachie, 2012, p. 531). Some perpetrators are also victims, though, of course, not all victims are also perpetrators. The assumption of “black and white distinctions between these categories” (McEvoy and McConnachie, 2012, p. 531) disregards the vast “grey zones of ambiguity” (Primo Levi, 1989, cited in Bernath, 2016, p. 46) that colours the everyday experiences of individuals during conflict. McEvoy and McConnachie (2012) elegantly capture the fluidity of these intersecting experiences in describing the human condition in periods of conflict as one wherein people “can move between kindness and wickedness in a single day, never mind across a lifetime lived in a society experiencing political or ethnic violence” (p. 534).

In unveiling the “messy reality” (Moffett, 2016, p. 146) of individual conflict experiences, McEvoy and McConnachie (2012, p. 533) further highlight the role of victimisation in constituting the victimiser on the individual level:

The circularity in such claims-making – of people who become involved in violence because of their own or their communities’ experience of violence – has been a constant refrain repeated to us in literally hundreds of interviews with combatants and ex-combatants over the years.

McEvoy and McConnachie (2012) introduce two important themes to the challenge of nuancing conflict experiences: the role of motivations (Moffett (2016) calls this ‘context’) in constructing the perpetrator, and that of innocence in constructing the victim. Each of these challenges, and their accompanying implications, are elaborated below.

Bernath (2016) further describes the dichotomised production and treatment of victims and perpetrators, captured in Figure 1a, as “simplistic” (p. 47) and dangerous. Simplistic because it “obscures critical aspects of political violence and mass atrocity” (Bernath, 2016, p. 47) and dangerous because it contributes to problematic processes of ‘othering’ that (re)produce antagonistic in and out, us and them, good and bad, group identities which “often constitutes the first step in producing the political space for mass victimisation” (p. 47).

Introducing the Complex Victim

Many of these critiques of binary identity labels propose expanding or reframing the treatment of identities in transitional justice to illuminate the muddy waters (Borer, 2003) of individuals' conflict experiences. It is through such an expansion of the (currently) binary identity framework within transitional justice that a layered understanding of the past can be constructed, and the transformative potential of truth commissions in particular, can be realised (Nwogu, 2010). The following section provides an overview of expansions to the traditional victim and perpetrator labels offered by seminal critical works in a concerted effort to break the binaries of transitional justice. The limiting effects of the binary identity framework in Sierra Leone's TRC are subsequently empirically exposed throughout Part Three of this thesis, whose findings provided grounded support for the conceptual arguments outlined below that advance the need to break this binary identity framework.

Moffett (2016) critiques the binary construction of victims and perpetrators in transitional justice in relation to the use of reparations specifically. While all victims experience suffering, he distinguishes between 'innocent' and 'complex' victims within his broadened definition of victimhood. "Innocent' victims refers to those who are not members of armed groups (i.e. civilians)" and "complex victims denotes those who have been victimised but are responsible for victimising others" (Moffett, 2016, p. 148). Moffett (2016) further defines complex victims as "individuals who are members of non-state armed, paramilitary or terrorist groups, or state forces who commit political violence but have been victimised through identifiable international crimes" (p. 151). Temporality is another significant criterion in Moffett's (2016) disaggregated definition of complex victims. "Complex victims are perpetrators first then victims" (Moffett, 2016, p. 152). In Moffett's (2016) framework for expanding acknowledgement of suffering and victimhood then, the label of complex victim is reserved for those who "end up suffering...as a result of belonging" to an armed group (p. 152). This raises challenges

between the issues of temporality and motivations in determining who can qualify for recognition as a complex victim. These will be addressed in subsequent sections. Moffett (2016) argues that a nuanced understanding of victimhood is necessary because victims are “never a simple, unidimensional category, either in terms of their own complex needs or in terms of the fluidity of identities that characterise” (p. 154) conflict. The “multiple and conflicting views” held on both the collective and individual levels present challenges that “transitional justice is ill equipped to address” (Moffett, 2016, p. 154) through the binary construction of these identities that has characterised the field. Complex victims remain “unseen and unheard as their suffering does not fit into socially accepted values of ‘innocent’ and ‘lawabiding’” (Moffett, 2016, p. 154). This denies the dignity of complex victims that requires a more contextualised approach in order to reconcile “their responsibility with acknowledging their victimisation” (Moffett, 2016, p. 156). Acknowledgement and responsibility are critical to Moffett’s (2016) proposed expanded framework of victimhood in transitional justice. He argues that a more ‘inclusive’ or ‘composite’ (Moffett, 2016) approach that recognises victimisation experienced by ‘complex perpetrators’ does not inherently have to reduce or obfuscate their responsibility for victimising others, if such inclusiveness is appropriately limited. The problematic zero-sum justice game of transitional justice can therefore be reframed into one of relative gains, whereby “all those who suffered would at least have their harm acknowledged and access to some form of remedy” (Moffett, 2016, p. 165). Nwogu (2010) supports such a re-conceptualisation within transitional justice, emphasising that victim dignity does not have to come at the cost of perpetrator agency. Instead she argues that victim dignity can be restored through recognition of perpetrator humanity, how it was lost and subsequently the redemption of his/her humanity (Nwogu. 2010). Expanding the scope of acknowledgement within truth commissions and transitional justice can thereby amplify its redemptive ambitions. This is demonstrated in Chapter 7 of Part Three of this thesis, wherein the desire for the TRC to offer a space for the expression of contextualised

narratives among ex-combatants is empirically constructed. A limited space for acknowledgement in Sierra Leone's TRC, restricted to treating ex-combatants as simple perpetrators, emerges strongly as a core deterrent to TRC participation among this population, as explored throughout the empirical analysis of this thesis, in Part Three.

Bernath (2016) adopts similar terminology to Moffett (2016) in her disaggregation of the problematic victim and perpetrator binaries of transitional justice. She refers to 'complex political victims' as "victims who simultaneously or successively experienced harm and participated in systems of oppression and political violence" (p. 47). One difference between Bernath (2016) and Moffett's (2016) expansion of victimhood in transitional justice is the treatment of (ex)combatants as either passively or explicitly belonging to such a nuanced identity structure, respectively. Bernath (2016) identifies the incorporation of (ex)combatants within the ECCC's formal structure by virtue of its definition of victims which refers to "any person who has suffered a physical, material or psychological injury in direct consequences of at least one of the crimes committed in Cambodia by the Democratic Kampuchea regime ...that is of the competence of the ECCC" (p. 53). According to Bernath (2016) this

does not exclude those victims who were responsible for victimising others (and) it allows for all direct or indirect victims of relevant Khmer Rouge crimes to be recognised as victims in the proceedings without consideration of their acts and responsibilities under Democratic Kampuchea, as long as they do not fall under its personal jurisdiction (p. 53).

This approach towards complex political victims can be considered passively inclusive, broadly inclusive of certain perpetrators by nature of the absence of their explicit exclusion.

Despite the formally-passive inclusive approach towards complex political victims adopted by the ECCC, Bernath (2016) demonstrates the limited space for their meaningful participation as recognised victims therein. Drawing on work from Bouris, she highlights that the "legitimate victim subject position" is reserved for the "ideal victim", defined by his/her "innocence, purity, moral superiority and lack of

responsibility" (Bernath, 2016, p. 60). Formal inclusion of 'complexity' among victims, therefore does not guarantee meaningful participation within transitional justice, wherein a "norm of the 'ideal victim'" (Bernath, 2016, p. 61) continues to determine the 'legitimacy' of the victim subject position, constructed around the "moral criterion of innocence" (p. 61). Despite formal inclusion, "the simultaneous dynamic of exclusion, which is subtler...significantly limits the space given to complex political victims" (Bernath, 2016, p. 66). Chapter 6 illuminates the formal (or prescribed) space accorded to ex-combatants, as perpetrator participants, and thereby establishes their legitimate subject position within the TRC. Together, Chapters 8, 9 and 10 go on to reveal the multiple processes and sources of exclusion that, in reality, marginalised ex-combatants from participating in the TRC, stemming from the TRC's failure to acknowledge the multitudes that exist within the universe of individual perpetrator experiences.

According to Borer (2003), the "clear-cut" (p. 1091) approach to defining victims and perpetrators, as "discrete and binary" terms and concepts, becomes "uncomfortable" (p. 1089) when one recognises the complexity of lived experiences during conflict. Using South Africa's TRC, she articulates a taxonomy of victims and perpetrators to highlight the myriad compound perpetrator experiences on the ground. She distinguishes, among others, between direct and indirect perpetrators; individual and group perpetrators; active and passive perpetrators; beneficiaries; bystanders; and perpetrators by commission and perpetrators by omission (Borer, 2003). Through this typology Borer (2003) demonstrates that "not all victims are the same, nor are all perpetrators the same" (p. 1090), and "some victims are also perpetrators" (p. 2003). In unpacking experiences of suffering and perpetration Borer's (2003) typology reveals that victimisation and perpetration occur as a matter of degrees, and not in absolutes. This reinforces the appropriateness of distinguishing between experiences and identities, articulated earlier. This reframing has several conceptual implications.

Borer (2003) draws attention to the difference between the group perpetrator and the individual perpetrator, and the problem of translating group labels to individual experiences. When a group is designated as a perpetrator, this automatically translates onto its individual members, evidencing significantly the problematic practice of homogenising individual experiences within neatly constructed and idealised categories. The individual becomes demonstrative of the group, though in reality, the group may not be representative of the individual's experience(s) within the group. Kilroy (2014) reiterates this problematic implication of transferring group labels onto individual identities. He argues that while "it is indeed appropriate to make judgements about the overall nature of a fighting group or its leadership," "transferring this generalised assessment to every individual member of the group is a different matter entirely" (Kilroy, 2014, p. 280). He further reinforces Borer (2003) in stating that "great care should be taken when applying the labels of 'victim' and 'perpetrator', especially at the level of a group of people" because "in reality, these categories can be too simplistic; people may fall into both of them" (Kilroy, 2014, pp. 280-281). This speaks to a key theme within this thesis, which examines the TRC experiences of low to mid-level ex-combatants in Sierra Leone precisely because their armed group membership formally designated their conflict experiences as perpetrators therein. As this thesis empirically demonstrates in Part Three, ex-combatants do not self-identify as exclusively perpetrators (or even as perpetrators at all, in many cases), and separate their individual actions and experiences from that of the warring groups they belonged to.

A further conceptual implication of recognising the complexity of perpetrator experiences, and one which permeates Borer's (2003) entire discussion on reconciling experiential complexity with structural binary identities in transitional justice, is the question of scope. The issue of scope boils down to two questions: "how far do we want to extend the concepts of victims and perpetrators" (Borer, 2003, p. 1109) and "how far can we stretch these concepts before they lose their heuristic value?" (Borer, 2003, p. 1110) A narrow definition of victims

disregards the complexity of individual experiences, and excludes the recognition of perpetrator suffering. However, too wide a definition of victimhood “serves to hide the unequal distribution of human rights abuses” (Borer, 2003, p. 1111). Moffett (2016) exposes this dilemma more explicitly in his analysis of the trade-off between acknowledgement and responsibility. We all suffer, but we do not all suffer equally. Widening the definition of victimhood grants acknowledgement to the suffering of those otherwise considered simple perpetrators, but also risks ignoring the responsibility of these complex victims and may promote “a culture of powerlessness and undifferentiated chaos” (Morrissey and Smyth, 2002, cited in Moffett, 2016, p. 151). However, Borer (2003), again in line with Moffett’s (2016) later argumentation, rejects the incompatibility of acknowledgement and responsibility. She argues that “recognising that some perpetrators can also be seen as victims does not absolve or exonerate them, of course. It does, however, acknowledge that they, too, are in need of reconciliation, and not demonisation” (Borer, 2003, p. 1114).

Lastly, in extending individual conflict experiences beyond the static binary of victim and perpetrator, Borer (2003) draws attention to the restricted space for participation that is created in transitional justice when individuals do not self-identify with these simplistic and dichotomised labels. The role of self-identity in participation in transitional justice adds complexity to Bernath’s (2016) discussion on the ‘subject position’ of victims (and perpetrators) therein. Bernath (2016) discusses the “legitimate subject position” (p. 66) of (complex political) victims, which forms the institutional dimension of participant subjectivity in transitional justice. Borer (2003) articulates the individual (micro or localised) dimension, which introduces the *appropriate* subject position into this framework. The institution of transitional justice may hold a monopoly over who is considered a ‘legitimate’ victim or perpetrator, but it is the individual him/her-self that determines the appropriateness of these labels in relation to themselves. Borer (2003) illustrates that, in South Africa, “many would-be applicants for amnesty never applied because they could not identify with the

process” (p. 1115), since they did not consider themselves perpetrators. This has significant implications for participation within truth commissions particularly, which are built on a foundation of voluntary participation, and are therefore reliant on the dimension of self-identification with its structural participant categories in order to effectively achieve its participation goals. Where participation is voluntary, a restricted space for participation emerges if the legitimate subject position of institutionally-constructed participant categories diverges significantly from what is individually understood as appropriately belonging to those constructed categories. Put simply, individuals who are institutionally defined as perpetrators, but who do not consider themselves perpetrators, are unlikely to see themselves as the appropriate subjects of a transitional justice process, and consequently, are unlikely to voluntarily participate. This introduces another problematic feature that the binary identity participation structure of transitional justice has produced, and one which affects truth commissions in particular: the logic of assumed perpetrator participation therein.

The Logic of Assumed Perpetrator Participation in TRCs

The binary identity participation model of transitional justice, and the voluntary participation structure of truth commissions, together have engendered a logic of assumed perpetrator participation. Firstly, the problematic binary identity framework of transitional justice, constrains participation by transitional justice participants into the static categories of either innocent victims or guilty perpetrators. Secondly, truth commissions are premised on an inherently voluntary participation structure. The vast majority of its local transitional justice participants do so freely and voluntarily. Indeed, this voluntary participation structure lies at the heart of its non-punitive and reconciliatory foundations, which cannot be achieved through coercion. This voluntary participation structure has its roots in the restorative and reconciliatory model of transitional justice that truth commissions attempt to implement. Reconciliation is an inherently voluntary process (Bloomfield, 2003), and so, it follows, that

participation in truth commissions, largely takes place voluntarily. TRCs commonly rely on “incentives” to ensure perpetrator participation, which is comparatively rare (Freeman, 2006, p. 161). Incentives, particularly in the form of the absence of punitive measures attached to participation, either through the granting of amnesty or through the inherently (alleged) non-punitive and non-judicial (or quasi-judicial) character of truth commissions, showcase that participation is not guaranteed. Its voluntary foundation requires incentives to promote participation, particularly among perpetrators (ex-combatants). Skaar (2018) reiterates the appeal of the absence of punitive measures in truth commissions by advancing that truth commissions are often perceived as “less threatening than trials because they do not have prosecutorial power” (p. 416).

Neither the binary identity framework of transitional justice nor the voluntary participation structure of TRCs consider the messy reality of lived conflict experiences that intersect along experiences of being victimised and victimising others. In particular, these constituent elements at the heart of the logic of assumed perpetrator participation do not account for divergence: the constructed legitimate subject position of participants may not align with self-perceptions of who belongs to the appropriate body of participants, thereby deterring participation. Rather, the voluntary participation structure of truth commissions, with possibilities for participation limited to the victim and perpetrator categories inherently requires transitional justice participants to self-identify with these binary identities for participation to effectively occur. A justice platform that demands guilt and confession (and promises forgiveness and healing) will only elicit perpetrator participation if such designated individuals correspondingly see themselves as guilty and have a desire to apologise and be forgiven. The question remains whether this rhetoric, and normatively derived logic, reflects the realities of individual conflict experiences and justice expectations. Detailed analysis of the problematic binary production of victims and perpetrators strongly indicates that this logic of assumed perpetrator participation is severely flawed, and this thesis’s analysis of Sierra Leone’s TRC, in relation to the ex-combatant

community there, lends strong empirical support to the inadequacy of this assumed participation logic.

In summary, the logic of assumed perpetrator participation in TRCs has normative roots stemming from its binary identity framework, which manifests institutionally through a voluntary participation structure, and consequently (potentially) constrains subsequent participation significantly. This logic falls apart when faced with the very likely possibility that the conflict-affected individuals upon whom such static labels are cast, do not self-identify with such designations. What happens to participation, TRC effectiveness and impacts, when transitional justice participants do not consider themselves its appropriate participants? This thesis unearths the empirical answers to this question of the problematic effects of the logic of assumed perpetrator participation through the illustrative relationship between ex-combatants and the TRC in Sierra Leone. The perpetrator subject position within transitional justice is anchored around the assumption of individualised guilt and the treatment of victimhood and victimisation as mutually exclusive experiences. Conversely, the subject position of victims centralises innocence and involves a calibration of suffering, built around a politics of blame. The next two sections critically discuss the role of innocence in constructing the legitimate victim, the politics of blame this engenders and the restrictive implications this has on the acknowledgement of suffering.

Innocence

Seminal studies on the disaggregation of victimhood converge along one particularly significant dimension: the role of innocence and suffering in defining victimhood. McEvoy and McConnachie (2012) foreground the need to break the binaries of the 'deserving' victim and 'wicked' perpetrator on the basis of the problematic role that innocence plays in the construction of victim identities. In excluding complexity from the definition of victimhood, and constructing the victim as the binary opposite of the perpetrator, a narrow victim identity is produced, with the requirement of complete innocence, at its centre. Innocence, as the experience of victimisation (suffering) and the absence of

victimising others, makes the victim morally superior to the perpetrator, and uniquely deserving of the benefits of transitional justice.

LaPlante (2007) articulates the significance of innocence in constructing victimhood by referring to the tension between the “clean hands doctrine” and the “principle of non-discrimination” (p. 53) within international law. The ‘clean hands’ doctrine is a “general principle of equity” which “recognises that a person ‘who asks for redress must present himself with clean hands’” (LaPlante, 2007, p. 60). It holds that “no polluted hand shall touch the pure foundations of justice” (LaPlante, 2007, p. 60). The principle of non-discrimination instructs that victimhood be applied and interpreted “without any discrimination of any kind or on any ground, without exception” (LaPlante, 2007, p. 59). LaPlante (2007) argues against the appropriateness of the clean hands doctrine in the context of human rights, precisely because it contravenes the principle of non-discrimination.

LaPlante (2007) and others highlight a critical point: suffering is not the same as innocence, and argue that the absence of the latter should not disentitle acknowledgement or treatment of the former. While suffering is inherent to any accepted definition of victimhood on the normative and institutional levels of transitional justice, in practice it has become a necessary but insufficient criterion for victimhood. Bernath (2016) argues that the “competing criteria of suffering and innocence” (p. 52) excludes meaningful consideration of ‘complex political victims’ because “the construction of a victim’s legitimate subject position...revolves around the moral criterion of innocence” (Bernath, 2016, p. 61). Innocence marks an individual as a ‘deserving’ victim, which becomes an “easy shorthand for blaming those deemed responsible for past horrors” (McEvoy and McConnachie, 2012, p.533). Narrowing the victim category to require innocence in order to be considered a legitimate or deserving subject of transitional justice, “by definition, entail(s) a calibration of suffering” (McEvoy and McConnachie, 2012, p. 532). This produces what McEvoy and McConnachie (2012) refer to as a “hierarchy of victimhood” with the “innocent victim” at its apex (p. 532). Acknowledgement of suffering

becomes the exclusive right of the innocent victim, which necessarily prevents the possibility for similar acknowledgement of suffering among individuals designated as perpetrators. Thus, the body of critical transitional justice identity scholarship converges around the problematic role of innocence in the construction of hierarchies of victimhood. Arguments to dismantle the simple dichotomies of essentialised victims and perpetrators similarly converge around the need to expand acknowledgement for individual suffering, in order for transitional justice to better accommodate the complexity of lived conflict experiences.

Blame

This hierarchy of victimhood, wherein suffering is graded and innocence (or clean hands) is paramount to legitimacy, equally produces a politics of blame. In calibrating suffering and defining victims' needs as inversely proportional to perpetrator punishment, blame too is necessarily designated. The innocent victim in need of saving is constructed, and so too the guilty perpetrator, upon whom blame is assigned.

When the definition of a victim requires the existence of a perpetrator, a politics of blame takes root, which produces a hierarchy of victimhood (McEvoy and McConnachie, 2012). Who gets to distribute blame, who is blamed, and who is considered blameless are invariably politically and normatively constructed when we understand the reality of suffering in conflict as ubiquitous, but the designation of blame and innocence as socially (re)produced, contoured by post-conflict power dynamics, and international norms. McEvoy and McConnachie (2012) describe the moral criterion of innocence in legitimising victimhood as a "politically invidious approach to victimhood that factors blame in the calibration of human suffering and inevitably results in the morally corrosive language of victim hierarchies" (McEvoy and McConnachie, 2012, p. 535). According to them (McEvoy and McConnachie, 2012), recognising that perpetrators "are also victims, either simultaneously or at other stages of their lives, challenges the impermeability of" (p. 531) transitional justice's constructed victim and perpetrator binaries.

This normative and structural impermeability fails to acknowledge their own experiences of suffering and designates them “unworthy citizens” (Tilly, 2008, p. 11). Essentially, limiting justice to the universe of the designated victims’ experiences neglects the injustices experienced by perpetrators.

Recasting the definition of victimhood to acknowledge complex experiences of suffering and dismantling the primacy placed on innocence as the paramount criterion of victimhood “expand(s) the potential for human empathy to both victims and perpetrators” (McEvoy and McConnachie, 2012, p. 534) and the complex constellation of intersecting experiences that characterise lived experiences of conflict. Such a layered understanding of complex conflict experiences removes the innocent victim from its hegemonic position within a corrosive victim hierarchy (McEvoy and McConnachie, 2012) and allows transitional justice to recognise the victim “who is no longer chained to characteristics of complete innocence and purity, but remains a victim nonetheless” (Bouris, 2007, p. 10). An expanded acknowledgement of suffering is therefore critical to the meaningful inclusion of complex conflict experiences within transitional justice. Expanding the scope of empathy through greater acknowledgement of experiences of suffering among perpetrators is particularly significant for truth commissions, given that restorative justice “demands empathy and the reintegration of perpetrators in the community” (Nwogu, 2010, p. 282). According to Moffett (2016), the expanded acknowledgement of suffering, to include experiences of victimisation experienced by perpetrators, does not replace or negate responsibility for abuses committed by such ‘complex victims’. McEvoy and McConnachie (2012) similarly posit that acknowledging the reality of perpetrator experiences of victimisation “does not obfuscate individual or collective culpability” (p. 534). Bernath (2016) lends empirical validation to these arguments, highlighting that ex-combatants who participated in the ECCC were able to receive some understanding for their own experiences of victimisation from within their communities.

Motivations

As highlighted earlier, the motivations that underlie some perpetrator experiences hold relevance within this broader discussion of innocence, suffering, blame and acknowledgment. When victimising others emanates from one's own experiences of victimisation – this contextual expansion of suffering expands the possible universe of injustice that transitional justice can seek to uncover, through acknowledging the role of motivations in subsequent acts of violence or abuse. In critiquing the simple construction of the perpetrator label in South Africa's TRC, Borer (2003) draws attention to the fact that the perpetrator category was defined with no consideration of motivations for, or the context and consequences of, acts committed by those within this group. The perpetrator identity "was neither nuanced nor contextual" (Borer, 2003, p. 1092). Nwogu (2010) emphasises that TRCs, especially in Africa, focus too much on "memory-making marked by the narration of events, paying little or no attention to the motivations behind events" (p. 277). She argues that to expose the roots of abuses, transitional justice needs to locate itself within "the mental universe of its most humble perpetrators" (Nwogu, 2010, p. 277, quoting Osiel, 2001, p. 2).

In her nuanced critique of the rigid participation model (the practice of justice-seeking) of truth commissions, Nwogu (2010) draws attention to the "disproportionate focus on the what, where and how of particular violations" in truth commissions, which ignore "measured investigation into the 'why' of violations" (p. 276). The collective memory project of truth commissions, one of their paramount purposes, is severely restrained by their superficial focus on uncovering a narrative centred around the idealised victims' experiences. At best, within this binary and hierarchical model of participation that ignores the relevance of motivations, a superficial explanation of a limited universe of injustice is uncovered, instead of revealing a textured understanding of the violent past and its root causes. According to Nwogu (2010), consideration of motivations behind acts and histories of abuse not only enables the construction of a more comprehensive truth, but

contributes to the “repair of social relations” (p.281) and deterrence, moreover. McEvoy and McConnachie (2012) echo the limiting impact of the absence of motivations within the victim-centred framework of transitional justice. They argue that transitional justice’s narrow focus on a limited explanation, constructed around the ideal victim, places primacy on condemning the past, rather than seeking to understand the root causes of it. In other words, while the identity structure of truth commissions (and transitional justice more broadly) constricts the complexity of messy conflict experiences into essentialised categories, the memory structure of such processes impedes achieving a democratic and transformative understanding of the past. Unearthing the past condemns the perpetrator; failing to unearth its motivations may serve to further condemn the future.

The issue of motivations raises the question of the morality of violence. According to Borer (2003), rejection of the simple perpetrator label can stem additionally from (self) perceptions of righteousness attached to acts perpetrated by a group or individual. She highlights the ANC’s anger with the TRC for “not properly distinguishing between the morality of the violence perpetrated by the state versus that perpetrated by those fighting against the state” (Borer, 2003, p. 2003). Motivations can therefore take on two dimensions: they can illuminate why someone fought, but also what they were fighting for. Determining what constitutes moral in the context of violence is, of course, inherently socially and politically driven, defined by the power structures and asymmetries that take root from, and after, conflict. Recognition of the politically and socially constructed morality of violence means that transitional justice has the power not only to designate identities, but also to redesign them. The politics of transitional justice allows it to reframe actions and identities so that a crime by one makes him/her a hero, and that very same crime by another makes him/her a perpetrator.

While most of the critical literature argues for the relevance of motivations within the appropriate universe of consideration in transitional justice, works by LaPlante (2007) and Moffett (2016)

indicate a rejection of this, on the grounds of equality and temporal restrictiveness, respectively.

As previously established, LaPlante (2007) argues against the applicability of the clean hands doctrine within the context of transitional justice, due to its incompatibility with the principle of non-discrimination. She does so on the grounds that suffering should be considered in isolation of the individual's status (their identity – whether they are a perpetrator or not). The argument that a person's "character" or status is "irrelevant" to their acknowledgment for harms suffered removes consideration of context or motivations from the calculus of victimhood (LaPlante, 2007, p. 53). She highlights that consideration of a person's 'character' (their identity) in determining their actions (being victimised or victimising others) "implies a value judgement on the worth of an individual that has nothing to do with" (LaPlante, 2007, p. 65) the action itself. Rather than expanding the potential for empathy, LaPlante (2007) implies that factoring in motivations produces its own politically and socially constructed hierarchies of transitional justice subjectivity, which contravene fundamentally the equality of standing enshrined within the principle of non-discrimination.

As introduced earlier, Moffett's (2016) nuanced framework of 'complex victims' includes a temporality criterion. Within his proposed transitional justice identity framework "complex victims are perpetrators first then victims" (Moffett, 2016, p. 152). They "end up suffering unlawful force as a result of belonging to an armed group" (Moffett, 2016, p. 152). This necessarily limits the temporal scope of transitional justice and prevents the consideration of experiences of suffering that may precede, and indeed lead to, or motivate, entry into an armed group in the first place. This stands in contrast to demands for nuance and complexity by McEvoy and McConnachie (2012), who recognise that perpetrators can "either simultaneously or at other stages of their lives" (p. 531) be victims as well. LaPlante (2007) and Moffett (2016) highlight the need for boundaries around the treatment of an individual's experiences within the scope of transitional justice.

While boundaries are indeed necessary for the field and practice of transitional justice to remain meaningful, and to prevent the stretching of identity frameworks to the point where they risk losing practical application, I nonetheless argue that the inherent complexity of individual conflict experiences merits greater elasticity within the identity framework of transitional justice. In particular, the temporal criterion put forward by Moffett (2016) is problematic as it introduces another source of exclusion by rejecting acknowledgement of preceding histories of suffering that do not conform to the chronology of permissible suffering that he presents. LaPlante (2007) argues for the consideration of experience in the absence of identity, which fails to incorporate motivations. Moffett (2016) argues for consideration of experience linked to identity, but restricts the possibility for the acknowledgment of victimhood to a particular chronology of suffering. This thesis argues for the expansion of victimhood that acknowledges motivations and does not require a particular sequence of perpetrating and experiencing suffering, that better reflects the complex and diverse histories of individual conflict experiences, and neither erases context nor demands a restricted chronology of suffering to merit application.

Guilt and Punishment in TRCs

The politics of blame inherent to the binary identity framework of transitional justice has already been established. The issue of blame (or guilt) and consequently punishment, has special significance within considerations of truth commissions specifically, due to their restorative and non-punitive foundations.

The absence of prosecutorial powers in the TRC, its separation from the SCSL, and the blanket amnesty applied in Sierra Leone, together eliminated culpability for ex-combatants as perpetrators before the TRC. According to Nwogu (2010), “the key distinction between restorative and retributive justice mechanisms lies in their treatment of the perpetrator” (p. 284). However, this is not to say that perpetrators are advantaged in TRCs. While culpability within non-judicial restorative mechanisms is indeed removed, so too is perpetrator standing before them diminished. According to Nwogu (2010), the

absence of prosecutorial powers also lowers the threshold for important accompanying legal protections, such as the evidentiary burden and the presumption of innocence. As shall be empirically demonstrated in Chapters 7 and 9 of this thesis, in Sierra Leone, the TRC still operated under a presumption of guilt towards this community. By imposing the identity of perpetrator onto all ex-combatants, their conflict experiences were treated in a vacuum, omitting consideration of the larger context of their wartime actions (the motivations underlying atrocities), and forcing a static identity onto these actions. Reggie, a former RUF fighter emphasised that “I am not a perpetrator. I fought, I killed in the war, and these are crimes. But I am not a criminal for doing these things”¹⁴. The distinction between perpetrating crimes and being a perpetrator underpins the inappropriateness of the TRC’s imposed identity structure in relation to the majority of interviewed ex-combatants’ understandings (self-identity) of their wartime experiences.

Despite the absence of legal prosecution attached to truth commissions, and their non or ‘quasi’ judicial structure, it would be a mistake to conflate the absence of culpability with an absence of guilt, blame, responsibility or punishment in these structures. The idea that TRCs are non-punitive is a normative fallacy, flimsily constructed on a severely restricted definition of punishment as prosecution. According to Tilly “truth commissions are designed to assign blame to perpetrators” (2008, cited in McEvoy and McConnachie, 2012, p. 533). Despite claims of holding restorative foundations, Nwogu (2010) argues that, in practice, TRCs apply a retributive logic of addressing victim needs through perpetrator blame. Thus, while TRCs generally do not enact punishment through prosecution, the role of blame in order to address the needs of victims requires acknowledging alternative forms of punishment that may nonetheless be enacted by such commissions. In particular punishment along social, economic and political dimensions may be enforced by TRCs, through (re)producing power asymmetries and redistributing resources and

¹⁴ RUF ex-combatant interview, Bo, October 2, 2017

social capital unevenly. Therefore, if we accept that victim primacy is the centrepiece of transitional justice (which this thesis fundamentally challenges), and truth commissions specifically, this then requires acknowledging that truth commissions may not in fact seek to dismantle pre-existing power asymmetries, but rather to reconstruct them. This subsequently entails accepting that the ambitions of TRCs may not be to reconcile the local, but rather to redistribute it, and in so doing may in fact entrench or produce inequalities. Reconciliation then no longer seems a justifiable anchor for this enterprise, but rather punishment. This thesis critically engages with this assumption, that equates the absence of prosecution with the absence of punishment, in TRCs, through the illustrative case of Sierra Leone. It empirically unpacks the problematic implications of this flawed premise in Chapters 9 and 10. In particular, Chapter 10, on the impact of the TRC on non-participating ex-combatants, highlights the impact of the TRC on entrenching conflict identities beyond the war as a form of punishment.

Ultimately, the claim that TRCs are ‘non-punitive’ is, at best, misrepresentative (Sirleaf, 2013), and at worst, false. The absence of conventionally retributive prosecutorial powers is not synonymous with the absence of punishment entirely, and it would be a mistake to characterise this form of transitional justice as non-punitive when considering the myriad forms which punishment can take.

Implications of Complex Victimhood

As highlighted previously, Nwogu (2010) argues that truth commissions fail in their fundamental truth telling ambition, due to the rigid participation model they apply. Normative and institutional biases that ‘essentialise’ victims and perpetrators and “elevate” (Nwogu, 2010, p. 283) victim voices in transitional justice produce a limited and hegemonic conflict narrative. An expanded framework of complex participation, incorporating acknowledgment, motivations and recognising the complexity of individual conflict experiences, would enable truth commissions to locate the “underlying grievances” (Nwogu, 2010, p. 279) behind war or repression. This would empower

them to produce a “democratising” (Nwogu, 2010, p. 279) and transformative truth. Greater nuance within the structural participation framework of truth commissions is therefore key to achieving the truth commission goals of generating a comprehensive and meaningful truth, repairing social relations and deterring future abuses. Bernath (2016) reiterates this, highlighting that the failure of transitional justice to accommodate individual complexity “impoverishes history” (p. 50) and produces, at best, an impoverished truth. In failing to address the motivations that underlie abuses committed by the complex victim (i.e. the every-day perpetrator), this rigid and unforgiving model of perpetrator participation limits “the perpetrator’s story to the timeline of the victim’s story” (Nwogu, 2010, p. 279). A nuanced framework of victimhood, and consideration of motivations behind violence within truth commissions, expands not only the universe of possible injustice which they can address, but equally magnifies the universe of justice to which they can contribute.

Resentment

The implications of a more complex victim typology and nuanced model of participation within transitional justice are not exclusively positive, and the costs of complexity warrant consideration. In particular, authors such as Bernath (2016), and Sesay and Suma (2009), draw attention to the risk of resentment. Bernath (2016) illustrates that while inclusion of ‘complex political victims’ amplifies transitional justice’s understandings of suffering, this inclusion can be harmful too, towards the “real victims” (p. 58) (i.e. the innocent victims), who may respond to this inclusion with resentment. In critiquing advocacy for a “universal definition” of victimhood Smyth (1998, quoted in Borer, 2003, pp. 1110-1111) holds that such a nuanced framework is counterproductive because it implies “universal needs” (pp. 1110-1111) that do not reflect the uneven distribution of suffering. Bernath (2016) highlights that, in the case of Cambodia’s ECCC, the ability for former Khmer Rouge members to seek civil party eligibility (complex political victim status) was considered unfair by some of the ‘innocent’ victims in this group for two reasons. ‘Innocent’ victims felt that the absence of innocence among former Khmer Rouge members

made them undeserving of sharing their same victimhood position. Additionally, this was experienced to dilute the superiority of their own suffering. Sesay and Suma (2009), introduce another potential way in which inclusion may result in resentment towards perpetrators. In their analysis of the DDR programme in Sierra Leone, Sesay and Suma (2009) point to the widely held “perception that reintegration benefits were rewards for the perpetrators of the war” (p. 31), which “compromised deeply held beliefs of fairness and justice” (p. 28). It then stands to reason that disaggregating victimhood to be more inclusive of perpetrator experiences of suffering and the motivations that underlie their participation in abuses may be viewed by those victims who suffered and remained innocent, as rewarding these perpetrator actions. Bernath (2016) maintains the need for the expansion of conventional understandings of victimhood, but concedes that acknowledgment of perpetrator suffering “cannot be at the expense of another victim” (p. 58).

Conclusion

This chapter has presented the theoretical framework of this thesis, and the basis for its critique of the normatively constructed and institutionally expressed binary identity framework in transitional justice. This binary identity framework homogenises, simplifies and pits victims against perpetrators in ways that are static, unforgiving and ultimately unaccommodating of the reality of complex lived war experiences. This will be empirically demonstrated in the analysis of this thesis throughout Part Three. The privileged position of victims within this identity framework further disadvantages ‘perpetrators’ within the transitional justice mechanism of truth commissions in particular, through the primacy placed on innocence, which prevents acknowledgement of suffering among those designated as guilty. The politics of blame also disregards the role and significance of motivations that underlie acts of victimisation among designated perpetrators. This in turn constricts the truth-telling ambitions of truth commissions, without consideration of which, only a narrow truth can be uncovered. Challenging the monochromatic production of victims

and perpetrators in transitional justice paints the landscape of justice in vivid technicolour. This is the overall ambition of this thesis – to empirically demonstrate the issues and challenges that accompany the problematic binary identity framework produced and applied by transitional justice, and to assert that the transformative potential of these bodies requires breaking such binaries in order to be meaningfully unlocked. This thesis's critical examination of identities in transitional justice, and their treatment within truth commissions through the case of Sierra Leone, calls for transitional justice to consider the full palette of conflict experiences among the local, the diversity of which, it has, hitherto, failed to register.

The second chapter of Part Two of this thesis, Chapter 5, develops the two frameworks on TRC institutional engagement and localised impact evaluation, that are subsequently applied to the empirical examination of the relationship between ex-combatants and the TRC in Part Three. The development and application of these frameworks is used to both interrogate and address the challenges of the dominant identity framework in transitional justice and truth commissions specifically.

Chapter 5

Institutional Engagement and Localised Impact Evaluation

Introduction

Chapter 5 develops the two frameworks that are empirically applied to the case of Sierra Leone's TRC through the lens of its non-participant ex-combatant population in Part Three of this thesis (in Chapters 8 and 10). Building on work and gaps in the literature around participatory programming, a framework of institutional engagement is firstly constructed, comprising the dimensions of ownership, inclusion and participation. Within this framework, this thesis develops the logic of participation inherent to discussions on local participation and foregrounds an important discussion around the distinction between local engagement as a formal (or prescriptive) and largely empty practice, and local engagement as formative. The second framework constructed within this chapter, and subsequently applied in Chapter 10, is a localised framework for evaluating TRC impact. This thesis centralises a localised analysis of transitional justice, foregrounding a particular segment within the local. This contribution to growing calls for, and research on, the micro-level (the local) within transitional justice extends this burgeoning sub-strand of scholarship to the dimension of transitional justice impact. It argues that while research acknowledging micro-level variation along the dimensions of transitional justice expectations and experiences has emerged, similarly localised evaluations of transitional justice impact remain absent. This thesis argues that there is a need to localise impact evaluations of transitional justice as well, as it is precisely among the myriad realm of the local that transitional justice seeks to impart a benefit and impact, and as a result, localising impact evaluations offers a uniquely meaningful avenue for assessing transitional justice effects. The first half of this chapter develops this thesis's framework of institutional engagement, which is empirically applied to the case of Sierra Leone's TRC through the lens of the ex-combatant population

in Chapter 8. The second half of this chapter constructs a localised framework of TRC impact evaluation, which is applied through the lens of Sierra Leone's non-participant ex-combatant community in Chapter 10.

A Framework of Institutional Engagement

Truth commissions are celebrated for being a highly locally engaging model of transitional justice (Hayner, 2011), but what does this actually mean? A clear conceptualisation of institutional engagement, as the relationship between those who affect, and those affected by, an institution, within TRC scholarship is currently absent, despite the critical role that engagement generally, and participation specifically, plays in both the advocacy and (purported) effectiveness of this mechanism of transitional justice.

The concept of institutional engagement as articulated throughout this thesis is drawn from the subset of participatory programming literature that originated within the development discourse and has spread to the broader peacebuilding research agenda. To clarify, within this thesis, engagement is operationalised as synonymous with the broader thrust of what is considered participatory programming (or approaches), while participation is conceptualised as one particular dimension thereof. Engagement therefore refers to the broader domain of opportunities for various (transitional justice) actors to interact with and influence an institution, in this case the TRC in Sierra Leone. As subsequent sections demonstrate, the elastic treatment of participatory programming in research and praxis has rendered it difficult to define, even harder to observe, but simultaneously necessary to incorporate. The framework of institutional engagement developed and applied in this thesis seeks to contribute operational clarity to the necessary but nebulous discourse around participatory programming. It does so by disaggregating the opportunities for the involvement of actors within an institution (what is considered institutional engagement moreover) along the dimensions of ownership, inclusion and participation.

Fundamentally, this discussion on engagement, and the practices of inclusion and exclusion (Bernath, 2016) that this entails, centre(s) around the question of agency (Donais, 2009). Authors such as Cornwall (2008), Donais (2009) and Kilroy (2014) recognise the problematic binary of participation, as largely empty rhetoric (formal or prescriptive engagement) against the formative promises and benefits enshrined within the discourse of participatory programming. Building from their work and drawing from discussions on participation and engagement from the larger development discourse, this framework of institutional engagement provides conceptual clarity around institutional engagement and its constituent dimensions of ownership, inclusion and participation. The subsequent application of this framework to the TRC in Sierra Leone in Chapter 8 sheds empirical light on questions of ex-combatant agency and exclusion through the lens of their engagement experiences.

Importantly this framework distinguishes participation from inclusion and ownership, as separate but complementary dimensions of TRC engagement. This discussion and development of a framework of institutional engagement in TRCs engages with the normative, structural and practical (operational) levels of truth commissions. In particular, the dimension of ownership constructed here interacts with the normative plane of transitional justice, while the dimension of inclusion captures the institutional level, and participation encompasses the operational or practical level of transitional justice engagement. Together, this framework is a tool by which to observe the formal treatment of perpetrators within Sierra Leone's TRC, and to compare this to their practical treatment therein, as well as to their own expectations and experiences of the TRC.

A Theory of TRC Institutional Engagement

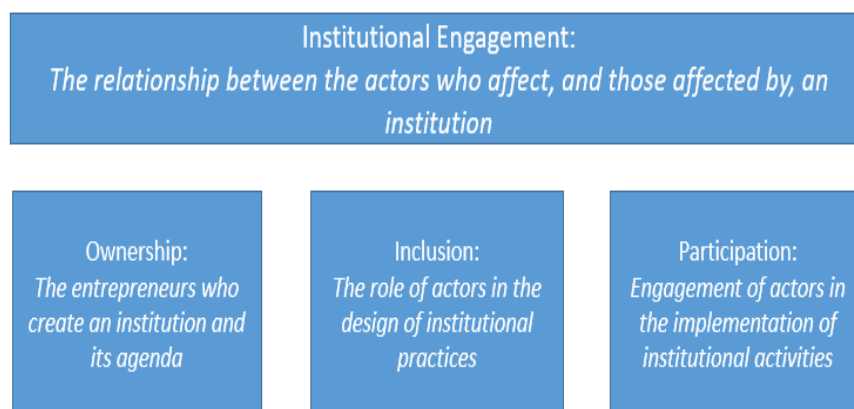
A clear conceptualisation of TRC engagement allows us to understand where engagement occurs (levels), how it occurs (forms), and what it achieves (impact). Institutional engagement comprises the opportunities for interaction between (groups of) actors and a process, institution or intervention: in this case the TRC in Sierra Leone. These

can be opportunities to influence a process (as transitional justice entrepreneurs or as stakeholders) as well as the possibility to participate in and/or benefit from such a process (as participants and beneficiaries). Engagement takes place at several levels, in many forms, with many potential (groups of) actors, and with varying degrees of sincerity, all of which have an impact on the success and sustainability of such processes, when measured against their own purported aims – of truth-telling, reintegration, reconciliation, transformation and development.

Ownership, Inclusion and Participation

Engagement refers to the relationship between those who affect a process, programme, intervention or institution, and those who are affected by it. It encapsulates the components of ownership, inclusion and participation. Engagement is therefore an umbrella term. Ownership refers to the transitional justice entrepreneurs who create an institution and set its agenda. Inclusion comprises the actors who inform an institution's subsequent design and content. Lastly, participation captures engagement within the actual content or programmes implemented by an institution, referring to the local participant population(s). Figure 2 shows institutional engagement as an umbrella term and disaggregates its constituent elements of ownership, inclusion and participation:

Figure 2:



Actors and Institutional Engagement

Chapter 1 has already defined the population of transitional justice actors that comprise transitional justice engagement. On the normative and institutional levels, transitional justice entrepreneurs comprise the external dimension of transitional justice. Transitional justice engagement on its practical level (and local dimension) comprises the body of local transitional justice participants. These terms are not mutually exclusive or static. Figure 3 summarises the populations that together comprise transitional justice actors.

Figure 3:

Transitional Justice Entrepreneurs	Transitional Justice Participants
1. Transitional Justice Experts	1. Simple Participants
2. Transitional Justice Brokers	2. Passive Beneficiaries
3. Transitional Justice Implementers	3. Stakeholders

Institutional Engagement and TRCs

Developing a framework of TRC engagement is necessary for two reasons. Firstly, (local) participation is the fulcrum of TRC advocacy. Secondly conceptual clarity around this term within TRC scholarship or practice does not currently exist; the terms participation, inclusion and ownership are used interchangeably. This discussion will demonstrate it is useful to distinguish between them, as separate dimensions of TRC engagement. Therefore, despite the fundamental role that participation plays as underpinning the unique position that TRCs hold as a mechanism of transitional justice, we lack clarity on what this term means, how it is achieved, and why it is necessary. This framework and its subsequent application in Chapter 8, thereby contribute to filling important conceptual and empirical lacunae within TRC scholarship, with its empirical examination of engagement through the lens of ex-combatant experiences.

Participation is the fulcrum of TRC advocacy

Ultimately, the key strength of truth commissions is participation. Advocates of truth commissions as a mechanism of transitional justice rely on the inherently participatory framework of such bodies as both a critical defining feature of truth commissions, and as the unique advantage that they enjoy over other mechanisms of transitional justice. Truth commission advocacy celebrates the high levels of participation among affected populations that this mechanism is advertised to promote and enjoy. In her revised definition of what constitutes a truth commission, Hayner (2011) puts forward that a truth commission “engages directly and broadly with the affected population, gathering information on their experiences” (p. 12). Macdonald (2013) reinforces the significance of local participation in truth commissions, highlighting that these bodies enjoy a “significant advantage” by producing a “broad perspective” on the causes and patterns of violence investigated, through local participation (p. 23). Local participation is a necessary requirement for the fulfilment of TRC aims. For truth-telling and the establishment of a historical record, advocates argue that the participatory model of TRCs provides a ‘narrative’ truth rather than a “forensic” (Macdonald, 2013, p. 23) one, built from the experiences gathered through the “great number of interviews” and the “detail and breadth of information collected” (Hayner, 2011, p. 20) from affected populations. Similarly, the aims of promoting reconciliation, accountability and deterrence in TRCs requires participation by those who were affected by, and participated in, abuses under examination, as introduced in Chapter 1 and discussed in Chapters 4, 6, 8, 9 and 10. However, empirical evidence on the role and impact of participation in TRCs remains largely absent and existing results are mixed (Brahm, 2007; Kaminski, 2006). Additionally, participation as one form of engagement is not in and of itself a sufficient condition for all TRC aims to be achieved; in some areas inclusion and ownership play an important role too, as shall be discussed later.

Given that TRCs rely on high levels of local engagement, this mechanism of transitional justice presents an appropriate space for

developing a more nuanced and concrete framework for institutional engagement. The terms inclusion, ownership and participation are often used interchangeably, contributing to the nebulous character and insincere application of engagement practices. This framework of institutional engagement distinguishes ownership, inclusion and participation as separate dimensions of engagement in order to better observe where and how entrepreneurs and participants interact, and the implications of this on questions of power and agency that lie at the core of engagement. A growing criticism of transitional justice is its external formulation and implementation, transposing western norms of justice onto local contexts. This has given rise to a robust debate within the field around the issue of ownership. In response to the importation critique of transitional justice there has been increasing momentum to learn from participatory approaches in the development discourse (Selim, 2017).

Ex-combatant engagement

This thesis focuses on the relationship between the TRC in Sierra Leone and the ex-combatant community specifically. It challenges the conventional approach to TRCs as 'victim focused' and sheds empirical light on a neglected but necessary population of conflict-affected people, whose participation in TRCs has long been assumed without investigating their actual experiences therein. Chapter 6 establishes the role and relevance of ex-combatants as necessary 'perpetrator' participants in the TRC in Sierra Leone.

The issue of ex-combatant engagement in Sierra Leone's TRC is underpinned by the view that this population should be considered relevant participants and indeed stakeholders therein. On the surface this may appear to challenge the conventional 'victim-centric' orientation of such bodies and begs the question of whether ex-combatants deserve to be treated as beneficiaries or stakeholders in TRCs and resultantly is engagement with them a necessary or even appropriate or desirable consideration? Work by authors such as Dougherty (2004) and Kilroy (2014) explicitly recognise the important role that ex-combatant participation in transitional justice processes

plays. Chapter 6 of this thesis also empirically and conceptually establishes the relevance of, and need for, ex-combatant participation in Sierra Leone's TRC to fulfil its truth-telling, conflict deterrence and reconciliatory aims. While opinions differ on the value and merit of ex-combatant participation, as carrying merely instrumental (functional) or intrinsic value, their status as transitional justice participants is concretely established (for more on this discussion see chapters 6 and 7).

The Logic of Participation

Issues of ownership, legitimacy, participation and broader questions of agency and power are shared by transitional and peacebuilding processes generally, all of which aim to engender locally legitimate and sustainable outcomes. Any process or institution that seeks to achieve an impact among a local population, inherently involves engagement with that population in some form. Drawing from research on engagement practices from the processes designed to contribute to the effective and sustainable transition of states from periods of conflict or repression can therefore usefully inform the conceptualisation of engagement in TRCs. As such, this study's framework of institutional engagement and the definitions presented of participation, inclusion and ownership are drawn from research in development studies as well as of participatory approaches towards DDR, SSR and transitional justice elsewhere (Donais, 2009; Kilroy, 2014; Vinck and Pham, 2008).

Within the development discourse, practices of engagement between institutions and their beneficiaries are commonly referred to as participatory approaches, and have "gained a mantra-like quality in development" (Selim, 2017, p. 1125) where it has become mainstreamed as necessary for sustainable and positive outcomes. The term participatory approaches (also referred to as participatory programming) is synonymous with this thesis's conceptualisation of engagement more broadly, as practices whose purpose is to bridge the divide between those who define, design and implement institutional activities and processes on the one hand, and those who participate within and benefit from them, on the other. Participatory

approaches refer to measures that aim to enhance not only direct participation within an institution, but also to increasing the agency, ownership and inclusion of those affected by it. The purported benefits of participatory approaches rest on the logic of participation, inherent to its advocacy. Figure 4 visualises the logic of participation in the following way:

Figure 4:

The Logic of Participation

Local Ownership → Legitimacy → Participation → Sustainability

The logic of participation holds that institutional engagement with local actors ultimately results in more sustainable outcomes. This is achieved in three steps. Firstly, engaging with local or affected populations creates local ownership. Ownership, in turn, is understood to enhance the legitimacy of the process in question, generating wider societal buy-in and support. Legitimacy is widely held to underpin popular participation in both short and long-term ways; promoting high levels of direct participation as well as longer-term sustainability of practices cultivated through these institutions or processes. The term ‘participatory approaches’ is widely accepted and used within development, and increasingly in post-conflict and peacebuilding discourses. However, I argue that it is useful to view such approaches as engagement practices, in order to distinguish and clarify the various types of engagement that can be sought, and the associated challenges and opportunities therein.

According to Selim (2017) “participatory approaches emphasise that people are central to development” (p. 1123). Such approaches are premised on the logic that people “marginalised in decision-making should be given a space to identify and express their needs and how to address them” (Selim, 2017, p. 1125). At the heart of these approaches is a “concern with power, voice and rights” (Selim, 2017,

p. 1123). Vinck and Pham (2008) argue that practices of engagement are central to the “philosophy and practice of sustainable human development” (p. 398). The sustainability of a process, institution or intervention therefore relies on actively involving the body of local participants in both planning and implementation (Vinck and Pham, 2008).

The benefits of participatory approaches are held to be two-fold: efficiency and empowerment. The efficiency argument holds that participation provides “a means” to achieve “better project outcomes including increased effectiveness, sustainability” (Selim, 2017, p. 1125) and reductions in time and money in the long run. The empowerment argument sees participation as “an end” (Selim, 2017, p. 1125). When affected peoples are involved (participate), “when they take charge, organise and take action, then they are seen not as subjects but enabled to become agents of change” (Selim, 2017, p. 1125). Cornwall (2008) reiterates this dual benefit of institutional engagement, underpinned by the logic of participation, framing engagement as either instrumental (reflecting Selim’s efficiency argument) and/or transformative (in line with Selim’s empowerment position, which treats participation as holding intrinsic value).

In evaluating SSR practices, Donais (2009) describes ownership as a concept that “remains both elastic and elusive” (p. 119). Kilroy (2014) reinforces the point that participation is still seen as “an emerging and nebulous concept” (p. 278) in much transitional programming. Similarly, in evaluating the spaces for engagement in Nepal’s TRC Selim (2017) highlights that “participation is practiced by a range of actors and is employed in a variety of ways so a definitive revision of the concept remains elusive” (p. 1127). This is true for engagement modalities more broadly, wherein “considerable ambiguity persists” (Donais, 2009, p. 119) around where, when and with whom engagement practices can, should and do take place; the conflation of the different elements of engagement; and the varying degrees of sincerity that exist for each dimension. Within this thesis’s discussion of local engagement, sincerity refers to the formative character of

these practices. This thesis conceptualises engagement practices as either formal or formative (understood as a spectrum and not a binary). Formal engagement is merely prescriptive and largely an empty box-ticking exercise in the pursuit of externally constructed agendas by the body of entrepreneurs in a particular process or institution. Formative engagement, on the other hand, uses local engagement to inform and affect the design and/or operations of a process or institution. Greater detail on engagement practices as either formal or formative is presented in subsequent sections of this chapter. The lack of conceptual clarity around the formal or formative character of engagement practices has made it “an infinitely malleable concept...mired in a morass of competing referents” (Kilroy, 2014, p. 278). The conflation of participation, ownership and inclusion as interchangeable terms to denote practices of institutional engagement is evident in assessments of transitional and developmental programming, and in the discourse around public engagement more broadly (Quick and Feldman, 2011). In their analysis of transitional justice attitudes in the DRC, Vinck and Pham (2008) rely on the concepts of ownership and participation to highlight the glaring absence of affected population involvement in considerations of transitional justice. However, these terms are not meaningfully distinguished from one another. According to Cornwall (2008), while “vagueness about participation means may have helped the promise of public involvement gain purchase” (p. 269) more “clarity through specificity” (Cohen and Uphoff, 1980, cited in Cornwall, 2008, p. 269) is needed “if the call for more participation is to realise its democratising promise” (Cornwall, 2008, p. 269).

Differentiating between these terms and clarifying what exactly is being treated in evaluations of engagement will allow research to pinpoint more accurately where power asymmetries between stakeholders and beneficiaries exist, the impact of such asymmetries on questions of local legitimacy, norm diffusion and sustainability, and to identify the realities and possibilities of agency and power relations between these actors more concretely. Ultimately, this study’s conceptualisation of institutional engagement and its application to the TRC in Sierra Leone

contributes to what Cornwall (2008) identifies as the need to dispel “some of the ‘clouds of cosmetic rhetoric’ that began to gather overhead when participation hit the mainstream in the 1980s” (p. 281, citing Cernea, 1991).

Institutional engagement provides a framework for assessing the relationship between actors within, and their experiences of, TRCs. Distinguishing participation, inclusion and ownership as separate components of engagement allows for the examination of engagement in all parts of the TRC – from its formation, to its design, and finally to its implementation and impact. Failing to disaggregate engagement into its constituent parts risks not only conflating its various components but also over-simplifying a complex and important aspect of TRCs, namely the sincerity (the formative potential) with which these institutions engage with local and affected populations. Kilroy (2011) highlights the “gap between aspiration and reality” and the “significant power imbalances between stakeholders” (pp. 129-130) as fundamental features of both advocacy for, and criticism against, institutional engagement. A thorough conceptualisation of engagement can therefore illuminate possible gaps between intent and reality regarding these actors, as well as bring to the fore power asymmetries between them, which in turn helps to ground evaluations of impact, success and effectiveness. A clear, comprehensive and multi-faceted understanding of engagement, its separate dimensions and their relationships to one another, allows for a deeper understanding of engagement and the formative degree of these practices, across normative, institutional, and local levels.

Engagement Breadth

Central to the practice of institutional engagement is the question of with whom to engage. Chapter 1 disaggregates ‘the local’ and draws attention to the fact that this is in fact a complex domain populated by myriad actors with their own agendas, needs and priorities. So while the logic of participation demands local engagement, this entails more than merely the box-ticking exercise of engaging with local actors (formal engagement). Rather, it involves engagement with appropriate

local actors. Identifying who the TRC in Sierra Leone engaged with delineates the breadth of this institutional engagement. Ascertaining this breadth is the first necessary step in subsequently uncovering both the relative depth and formative degree of such engagement relationships, which informs us significantly and uniquely of the agency and power relationships present among actors that comprise the TRC entrepreneur population and allows for a textured subsequent analysis and understanding of TRC participation and impact, through the lens of relative local participant agency. Important to note is that while large institutional engagement breadth certainly carries much intrinsic appeal, in reality “participatory processes do not and literally cannot involve everyone” (Cornwall, 2008, p. 276). Identifying the necessary interest groups whose engagement is required to achieve the purpose(s) of a particular institution or process and focusing on ensuring their formative involvement underlies Cornwall’s (2008) conceptualisation of “optimum participation”, wherein the focus is placed on “getting the balance between depth and inclusion right for the purpose at hand” (p. 276).

Engagement Depth: Formal and Formative Engagement

As highlighted previously, the term sincerity within this discussion on engagement practices refers to the formative character (or conversely, formal character, when sincerity is absent) of these practices. Understanding the formal or formative character of engagement is critical. According to Kilroy (2011), institutional engagement means formatively involving intended beneficiaries in the process. The presence of engagement practices, along any dimension, can be applied with varying degrees of sincerity, as Chapter 8 demonstrates empirically. Selim (2017) points to the difference between the “ritual of” engagement “and ‘real power’ that can affect the outcome” highlighting that engagement “without redistribution of power is an empty and frustrating process for the powerless” (p. 1126, quoting Arnstein, 1969, p. 216). Similarly, Kilroy (2014) highlights that engagement practices “must be dealt with as a matter of degree, distinguishing between pretence and empowerment, and everything in between” (p. 281). The

'ritual' or 'pretence' of engagement highlighted by Selim (2017) and Kilroy (2014) constitute formal engagement practices, that apply a prescriptive practice of engagement, without the ability to inform or affect an institution's design or operations. Formative engagement, on the other hand, reflects engagement practices that Selim (2017) and Kilroy (2014) describe as empowering for local and affected populations.

Various participation models have been developed, notably those by authors such as Chambers (1997), Arnstein (1969; 2011), Pretty (1995), and White (1996; 2011), that catalogue the various rungs of participant involvement. According to Selim (2017), a common theme among these models is the recognition that "information sharing and consultation are tokenistic attempts" (p. 1126) that apply the ritual of engagement without granting agency to those involved. This is mirrored by Kilroy (2014) who highlights that while engagement practices are a core aspiration of transitional programming, in reality this is rarely achieved. While the rhetoric and significance of participatory approaches has become widely recognised as necessary within development, it is often "only the language that has changed, and not the actions" (Selim, 2017, p. 1126).

Cornwall (2008) frames the distinction between voice and agency as the translation "from involvement to influence" (p. 278). Formative engagement cannot "be achieved by waving a magic participation wand and hey presto there is empowerment!" (Cornwall, 2008, p. 278). It requires "investment, time and persistence" (Cornwall, 2008, p. 278). Formative engagement practices are evidenced in two ways: impact and sustainability. Formative local engagement as impact refers to the contribution that engagement practices make to the process or institution in question. According to Triponel and Pearson (2010), meaningful participation requires "integrating feedback received from the public into the transitional justice mechanism" (p. 104). At the core of this measure of local engagement are questions of agency, ownership and power. When engagement practices do not contribute to shaping institutional design or activities they enact involvement

without influence (Cornwall). Tokenistic or formal (prescriptive) engagement practices risk granting a voice, but not agency, to affected populations. Voice may also involve only a limited space for expression and raise expectations around institutional outcomes (Selim, 2017). Donais (2009) emphasises the significance of impact as necessary for engagement to be formative in his treatment of the concepts of agency and ownership. Similarly, Selim (2017) and Kilroy (2014) address impact as necessary for engagement to be formative by highlighting the relationship between decision-making and power in transitional programming. According to Kilroy (2014) and Selim (2017), when engagement has impact (affects decision-making) it empowers affected populations, redistributes power, initiates knowledge transfer between institutional actors and participants and results in more locally relevant programming. Conversely, the “charade” (Kilroy, 2014, p. 281) of institutional engagement without impact can serve to “legitimise (a) predetermined and externally driven” agendas (Selim, 2017, p. 1126). Engagement that lacks impact “is a sham as it offers no assurance that citizen concerns and ideas will be incorporated” (Arnstein, 1969, cited in Selim, 2017, p. 1142).

Secondly, for engagement to be formative it must be continuous. According to Selim (2017), formative engagement “requires a sustained attempt to include local voices” (p. 1130). A “fully participatory process takes part at every stage of the transitional justice process” (Selim, 2017, p. 1130) and covers “the full project cycle” (Kilroy, 2014, p. 277). Formative engagement cannot be achieved by practices limited to one part or phase of the process (Kilroy 2014; Selim, 2017; Triponel and Pearson, 2010). Formative engagement as sustainability reflects Farrington and Bebbington’s (1993) participatory depth axis in assessing participation. “A deep participatory process engages participants in all stages of a given activity” (Farrington and Bebbington, 1993, cited in Cornwall, 2008, p. 276). Engagement should begin at the initiation stage of transitional justice, by asking whether communities want transitional justice (Selim, 2017). Engagement with local populations in the creation of a transitional justice system “paves the way for increased public participation” in

“subsequent design and operations” by creating a more responsive, diversely informed and locally legitimate transitional justice system (Triponel and Pearson, 2010, p. 105; p. 111). However, engagement does not and should not end with the creation of a transitional justice mechanism (Triponel and Pearson, 2010). Triponel and Pearson define ownership as a “continuum” (2010, p. 117) that requires sustained and affective engagement throughout the lifespan of a transitional justice mechanism.

Engagement Practices and Timing

This thesis builds its conceptual framework of institutional engagement in two ways; the practices of engagement (practice-oriented); and the relationships (and timing) of engagement (actor-oriented). Engagement practices, depending on their timing and character (as either formal or formative) can have varying effects on the (power) relationships and agency of those involved.

Outreach and input

This thesis argues that engagement practices fall in one of two categories: engagement that is outreach-oriented, and engagement that is input-oriented. What distinguishes these activities from one another is the direction of possible knowledge transfer between transitional justice entrepreneurs and participants. Outreach-oriented engagement activities encompass all public education activities, such as information sharing and sensitisation, that aim to inform (potential) participants about the scope, content and objectives of a process to promote participation in institutional activities. Knowledge transfer moves in a top-down direction, wherein transitional justice participants are educated about a particular transitional justice process with the aim of enhancing local support for, and participation in, the process. Such activities do not offer an opportunity for voice or agency within the design or operations of a transitional justice process, thereby treating target audiences as simple participants and/or passive beneficiaries. Outreach engagement practices generally take place after the institutional design and activities have been finalised, and focus on

encouraging higher participation in the content of a transitional justice mechanism (in the case of TRCs, statement-taking and hearings).

Input-oriented engagement practices encompass activities that, in theory, provide an opportunity for local input into the transitional justice process. They include consultations, surveys, participatory action research and collaborative oral history projects (Selim, 2017). When applied formatively, such input-oriented practices offer an opportunity for bottom-up knowledge transfer that can redistribute traditional power asymmetries between institutional actors and participants, transforming them into stakeholders and agents of change.

Consultations

Consultations dominate institutional engagement in transitional justice. According to the UN the “most successful transitional justice experiences owe a large part of their success to the quality and quantity of public...consultation carried out” (UN Secretary General, 2004, p. 7). National consultations provide a platform to “identify needs and entitlements of affected communities, ensure strong local ownership, promote respectful dialogue and stakeholder articulation in the transitional justice process, reignite peace processes, trigger debates in communities, and help develop ownership of transitional justice” (Selim, 2017, p. 1128). Such consultations seek input from actors and groups on the local level about their needs and priorities around transitional justice, and present an opportunity for transitional justice to incorporate and adapt to local needs, agendas and contexts. When consultations are formative they create the space for shared “decision making and authentic partnerships” (Selim, 2017, p. 1128). Conversely, when formal they are merely prescriptive, and may breed distrust between institutional actors and participants (Kilroy, 2014). Formal (or prescriptive) consultations do not only dismiss local voices and needs but actively devalue their contributions, designating them “unworthy” of consideration or incorporation (Selim, 2017, p. 1128). As frustrations mounted between civil society and the TRC in Sierra Leone, one TRC broker respondent, working within the TRC Working

Group shared that “asking us to express the needs of Sierra Leoneans and not listening was worse than not asking us at all”¹⁵.

Drawing from Kilroy’s (2014) adaptations of various typologies or ladders of participation, prescriptive consultations best reflect Pretty’s (1995) category of functional participation, and nominal participation according to White (1996; 2011). According to Pretty (1995, quoted in Kilroy, 2014), functional participation denotes local population involvement that “may be interactive and involve shared decision-making, but tends to arise only after major decisions have been made by external agents. At worst, local people may still only be co-opted to serve external goals” (cited in Kilroy, 2011, p. 131). Similarly, White (1996;2011) describes nominal participation as a form of participation that is used as a legitimisation exercise by external stakeholders (what this thesis defines as transitional justice entrepreneurs). Prescriptive consultations can therefore be defined as a form of engagement between transitional justice entrepreneurs and participants that lacks affective power as major decisions or decision-making powers remain concentrated in the hands of external stakeholders. A display of engagement is achieved without granting agency to those whose voices have been sought. Prescriptive consultations are evidenced when subsequent institutional programming does not incorporate or reflect consultative input and feedback, or reflect the views and needs expressed by those actors with whom consultations have taken place. This strongly evidences that consultation outcomes are pre-determined, and supports the supremacy of external transitional justice entrepreneur interests.

Consultations are formative, and may engender communities of practice (and enhance inclusion as well as local ownership) when the actors involved play a constitutive role in subsequent institutional programme planning, design and implementation. Unlike prescriptive consultations, outcomes are not pre-determined, but rather informed by the input and feedback gathered during consultations. Vinck and

¹⁵ TRC Broker (civil society member) interview, Freetown, November 19, 2016

Pham (2008) highlight that formative consultations mobilise “civil society, and, more broadly, the population” (p. 399) (widening the local community of stakeholders), which democratises the process or institution within which such consultations occur. This democratisation, through the “active involvement of affected population(s) in the planning” (Vinck and Pham, 2008, p. 398) of transitional programming secures “legitimacy and public accountability for policies put forward” (p. 399), which can foster a “sense of (local) ownership and participation” (p. 399), that is in turn necessary for achieving sustainable outcomes, according to the logic of participation. Formative input through the genuine engagement of “citizens in decisions that affect their lives distinguishes substantive democracy from formal or procedural democracy” (Caparini, 2004, p. 56). Such consultations thereby evidence formative engagement practices in the designing of policies, practices and content. This may in turn cultivate a sense of local ownership around a process or institution, regardless of the composition of entrepreneurs at the normative or institutional ownership levels, meaning that an actor does not necessarily have to be involved in the establishment of an institution to be a stakeholder in its design and implementation, if consultations are formative. Consultations can therefore affect both the ownership and inclusion dimensions of engagement, depending on their timing and affective nature.

Drawing once again from Kilroy’s (2014) adaption of Pretty’s (1995) ladder of participation, the rung of interactive participation best reflects the constitutive communities of practice and character of formative consultations as a practice of engagement. According to Pretty, within a framework of interactive participation, “participation is seen as a right, not just a means to achieve project goals” (1995, quoted in Kilroy, 2014, p. 279). Multiple perspectives are sought and (affected) people participate in joint analysis, developing action plans and forming or strengthening local institutions. Decision-making and resource distribution becomes localised and participants and beneficiaries thereby become stakeholders with a vested interest in maintaining the structures or practices put in place by the institution or process.

Beyond granting a voice to affected populations (or beneficiaries), formative consultations grant agency to participants, transforming them into stakeholders. The difference between consultations as either (formal) prescriptive or formative is summarised in the following table (Table 1):

Table 1:

Prescriptive consultations	<ul style="list-style-type: none"> • A legitimisation exercise by external entrepreneurs without sincere engagement with local participants • Participants are granted voice but not agency in the design or outcomes/outputs of a programme • External goals and entrepreneur interests determine institutional design and outcomes (subsequent content)
Formative consultations	<ul style="list-style-type: none"> • Underpinned by the logic of participation • Creates communities of practice • Agency is achieved through the implementation of consultation outcomes in subsequent institutional design and operations • Empowers affected populations/participants • Fosters inclusion • Engenders local ownership • Promotes locally sustainable outcomes and participation • Participants become stakeholders by being granted both voice and agency within a process or institution

Three Dimensions of Institutional Engagement

Engagement practices cultivate relationships between transitional justice entrepreneurs and participants along three dimensions:

ownership, inclusion and participation. At the highest level of engagement, ownership denotes those actors responsible for identifying and setting the agenda that engenders the existence of an institution. The need for transitional justice in societies emerging from periods of conflict or repression has strong normative underpinnings, and so ownership too is strongly embedded within the external and normative dimension of transitional justice.

Ownership and Inclusion

The distinction between ownership and inclusion is a difficult one to fully define, and it is more appropriate to conceptualise these dimensions of engagement as lateral, rather than hierarchical. Both dimensions are predominantly characterised by relationships with transitional justice entrepreneurs. Formative inclusion practices that grant both voice and agency to a wider range of participants (who thereby become stakeholders) have the potential to foster ownership through such inclusion, and therefore can intersect with actors from the category of local transitional justice participants.

Within this thesis, what differentiates ownership from inclusion is the timing of institutional engagement, whereby ownership refers to those actors who contribute to establishing an institution and its core agenda. However, this level of engagement is not restricted to institutional establishment and the (external) actors who engender this. Given the constitutive role that transitional justice entrepreneurs play in both creating an institution and setting its agenda, ownership also denotes influence over the design and content of an institutional, and so can overlap significantly with inclusion. The dimensions of inclusion and ownership intersect where practices of inclusion are formative, as this type of inclusion can foster ownership by granting actors agency in the design and implementation of an institution, even without being part of the original agenda-setting group of entrepreneurs. Ownership and inclusion therefore intersect when both these dimensions of engagement are formatively applied. Yet they occupy distinct spaces where one or the other is superficial (formal or prescriptive) in character. This underscores the fact that the formal or formative

character of engagement varies across each of its dimensions. It also highlights that engagement, within any dimension, is not a guarantee of (sustained) agency. It is possible for ownership of a process to be achieved through formative inclusion, without belonging to the group of entrepreneurs responsible for the original establishment of that process. Similarly, engaging in the creation of a process, does not guarantee a determinative voice, or agency, within its subsequent operations and outcomes. In Sierra Leone's TRC, this study observes the decline of formative engagement, in relation to local civil society actors (TRC brokers), between the ownership and inclusion dimensions of institutional engagement, discussed in detail in Chapter 8.

Ownership Debate

Central to any discussion of ownership in transitional justice is the question of local ownership and the debate between international versus local ownership. This debate foregrounds the necessary and appropriate role that different actors, and segments of the local, play in the establishment, design and implementation of transitional justice initiatives. As highlighted in Chapter 4, criticisms of the normatively driven, top-down Western paradigm of transitional justice have heralded increasing attention to, and calls for, more locally led, driven and inclusive justice processes. According to Ainley (2015), public engagement and inclusivity within transitional justice has received increasing attention among academics and policy-makers. The logic of participation articulates the benefits of local ownership that underpin its advocacy. The importance of local ownership, and engagement more broadly, together with the messy reality of needing to reconcile the demands of justice with the need for peace, have given rise to TRCs as a particularly attractive, locally-owned, mechanism of transitional justice (see Chapter 3 for a detailed genealogical discussion on TRCs). Increased attention to the need for "public engagement" in transitional justice has made the concept of localising justice a "normative standard" within transitional justice, though its practice (and effectiveness) remains veiled (Ainley, 2015, p. 248).

Inclusion

Ownership comprises the community of transitional justice entrepreneurs that establish an institution. Inclusion captures the role given to actors in the design of an institution's operations and mandate. Actors within this dimension are tasked with answering the question of how to address the (previously, and normatively) identified needs and priorities of an institution. As highlighted previously, inclusion and ownership can intersect where practices of inclusion are formative and thereby cultivate ownership among transitional justice actors.

In differentiating inclusion from participation within public engagement, Quick and Feldman (2011) define inclusion as practices that "continuously creat(e) a community involved in coproducing processes, policies and programmes for defining and addressing public issues" (p. 272). The active and affective (formative) involvement of participants as stakeholders through formative engagement creates community capacity to implement decisions and tackle issues and builds connections among people over time. Such formative inclusion engenders "communities of practice" (Quick and Feldman, 2011, p. 273) whereby practices play a constitutive role in creating community. Communities of practice "learn and change through the practices they enact, as long as people are engaged in practices, community is being created" (Quick and Feldman, 2011, p. 273). Significantly, formatively inclusive practices also produce "communities of participation" (Quick and Feldman, 2011, p. 274), highlighting the determinative role that institutional inclusion plays in fostering subsequent participation on the practical or substantive level, and once again evidencing the primacy of the logic of participation.

Quick and Feldman's (2011) characterisation of inclusion as building communities of practice mirrors White's (1996; 2011) typology of participation, specifically that of transformative participation. Transformative participation is anchored in empowerment, where engagement is both a "means and an end" (1996, quoted in Cornwall, 2008, p. 273). White's (1996; 2011) treatment of transformative participation is synonymous with practices of formative inclusion, as

defined by this study's framework of institutional engagement. Inclusion that is transformative strengthens people's capabilities to take decisions and act for themselves (White, 1996, referenced in Cornwall, 2008). This localises ownership through the creation of a continuing and constitutive dynamic, as captured in Quick and Feldman's (2011) "communities of practice" (p. 285) wherein participants become stakeholders through their formative inclusion in the design and implementation of an institution. The notion of communities of practice is of particular significance to the TRC engagement, given that their critical aim, of contributing to reconciliation, requires long-term community engagement, and ultimately must take place within and among communities, to be successful. Inclusion therefore takes on paramount significance within transitional programming whose aims are to achieve sustainable and locally-driven outcomes. Inclusion is a powerful tool to achieve local legitimacy, participation and ultimately sustainable outcomes, but only where it is implemented formatively. Asymmetries in formative inclusion practices evidence power imbalances among transitional justice entrepreneurs, and can serve to privilege particular agendas and exclude or devalue the voices and contributions of other necessary actors.

Local Engagement

As previously highlighted, the logic of participation argues for increased local involvement in different phases of a peacebuilding process. Local inclusion is widely assumed to sufficiently equate to the adequate incorporation of locally representative voices and needs. However, such engagement is not a magic participatory antidote to externally imposed, top-down, processes. It is fraught with practical challenges that require critical assessment if such engagement is to fulfil its promise of providing a formative space for local engagement, and thereby secure local legitimacy, robust participation and sustainable outcomes. Skaar (2018) argues that TRCs may have a larger effect on society if they engage "more purposefully" (p. 407) with different levels of the local. Local involvement, particularly in the design and operational agenda-setting phase of a process (which

characterises the dimension of inclusion) can enhance the responsiveness and relevance of a particular institution or programme. However, it can also highlight power asymmetries when agency is unevenly distributed among transitional justice entrepreneurs, thereby constituting exclusive inclusion. Put simply, local inclusion in its broadest sense does not magically transform a top-down transitional justice mechanism into a formative and representative bottom-up one.

Participation

The final dimension of institutional engagement is participation. Participation denotes engagement in the implementation of an institution's activities or programmes. While ownership and inclusion comprise the normative and institutional components of engagement, participation reflects engagement within the content of an institution, within the practice of transitional justice activities. Within TRCs this refers to participation within the statement-collecting and hearings activities of such bodies. It is within the dimension of participation that engagement with affected populations is most highly sought, as these actors form the participants and beneficiaries of these programmes. The fact that the term 'participatory approaches' has been so widely adopted is testament to the significance awarded to this element of engagement. Success measured as the number of beneficiaries within the content of a programme or institution has become commonplace. For instance, DDR programmes conventionally measure their success in terms of the number of demobilised combatants (Muggah, 2005). In Sierra Leone, interviews with TRC implementers showcase that high turnout for public hearings was widely seen as indicative of the TRC's success¹⁶. Engagement along all other dimensions is traditionally geared towards increasing participation outcomes.

Conceptualising participation as a component of institutional engagement takes on special character within the context of TRCs, as participation means the act of participating in the TRC's statement-taking and/or hearings. Participation within a TRC is therefore limited

¹⁶ Interviews with 6 TRC Officials in 2017 and 2018 in Freetown.

in scope (to one or two of its activities), while its impact aims to be much broader. The space to generate communities of practice is therefore inherently limited within the framework of TRCs, wherein the possibility for direct participation is small, yet which aims precisely to foster and empower ongoing and sustainable constitutive community outcomes.

Conclusion

The first half of this chapter has developed a framework of institutional engagement that contributes conceptual clarity to the nebulous discourse of participatory programming. By disaggregating institutional engagement into its constituent dimensions of ownership, inclusion and participation, a concrete and comprehensive examination of what engagement is, and where, when and how it takes place, is made possible. Chapter 8 applies this framework of institutional engagement to the TRC in Sierra Leone, through the lens of the ex-combatant population. Chapter 8's empirical examination highlights the diminishing space for formative engagement with TRC brokers and the overall absence of local engagement with ex-combatants specifically. It reveals empirically that ex-combatants, despite being identified as explicit local TRC participants (in Chapters 4 and 6), were given neither voice nor agency within the establishment, design or operations of the TRC. The second half of this chapter develops the localised framework of TRC impact evaluation that is applied in Chapter 10.

A Localised Framework for Evaluating TRC Impact

Evaluations of transitional justice, and TRC impact, commonly measure success through externally derived or 'top-down' assessments of outcomes, mandate achievement and inclusivity. To date, such evaluations paint a bleak and fragmented picture of transitional justice effectiveness. Simultaneously, there is growing recognition of micro-level variance in transitional justice experiences across the local, and the concepts of local ownership and inclusivity have been mainstreamed as necessary for transitional justice to be legitimately and sustainably implemented. Despite this push for the

local in transitional justice, localised (or bottom-up) evaluations of transitional justice impact is only beginning to emerge (Sirleaf, 2013). Additionally, Chapter 1 has already established that the local is a complex domain. As such, disaggregation is necessary in order to unearth the 'bottom' level impacts of transitional justice, and the variation therein. This thesis takes empirical steps to fill this lacuna, presenting an argument in favour of localised impact evaluations of transitional justice. The framework of localised impact evaluation presented here is subsequently applied in Chapter 10 wherein the application of this framework is disaggregated onto the ex-combatant population in Sierra Leone.

An Argument for the Local

According to Ainley (2015), defining success in transitional justice is impossible, rather she advocates for research to reconsider "what should count as transitional justice success and how it should be evaluated" (Ainley, 2015, p. 241).

Friedman (2017) calls attention to the "importance of endogeneity in evaluating transitional justice" (p. 106). Similarly, Sirleaf (2013) argues in favour of localising transitional justice impact evaluations because "the justice that people (within the local) see and experience shapes the reality of what is" (p. 228). Localising understandings of transitional justice success, by measuring impact and effectiveness according to local expectations and experiences of transitional justice, provides a more meaningful context-driven measure of success. It asks: what is the impact of transitional justice on precisely the local populations it addresses? This can only be discerned through a localised approach, and requires understanding the justice needs of these populations, their expectations of transitional justice in a particular context, and whether transitional justice measures have been successful in meeting these needs and expectations. Localising impact and evaluating success according to affected population expectations and experiences is particularly necessary within the contexts of TRCs, as the specific mechanism of transitional justice that is lauded precisely

for having an intrinsically high degree of local engagement, and subsequently, impact.

Ainley (2015) outlines the six factors commonly claimed to demonstrate transitional justice success or failure within research: outcomes; mandates; processes of establishment and functioning, local engagement (victims in particular) (treated together to constitute institutional engagement); adherence to universal normative standards; and cost-effectiveness. She further identifies five challenges that accompany attempts at judging the success of transitional justice: possibility; causality; temporality; aggregation; and generalisability. Lastly, she suggests four tools to aid in the development of impact research within transitional justice: deep engagement with contexts; mixed methods; reflexivity; and political judgement. A localised approach to assessing TRC impact draws on several of these factors, addresses many of the challenges that Ainley (2015) identifies and incorporates some of the tools she proposes to aid in the journey forward. Specifically, this framework builds on the identified factors of outcomes, mandates and institutional engagement foregrounded by Ainley (2015). Additionally, it incorporates TRC recommendations, local expectations and the concept of identities. This localised approach provides both a deeper (through a disaggregated focus on a particular affected population on the level of the local – ex-combatants) and holistic framework for understanding impact and measuring success. The localised framework for evaluating TRC impact developed in this chapter is subsequently empirically applied in Chapter 10. This framework enables this thesis to accomplish analysis along the final dimension of its localised (micro-level) axis of investigation: uncovering the impacts of the TRC on its non-participant ex-combatant population in Sierra Leone.

A localised and disaggregated approach to transitional justice impact foregrounds local expectations and experiences. Demands for greater ‘bottom-up’ engagement have swarmed transitional justice. Therefore, given increasing recognition that for transitional justice to be effective it must accommodate and meet the justice demands of the local,

measurements of impact and definitions of success in line with this push for the local are both necessary and currently absent. Despite increasing attention to the need for local ownership and localisation in the design and operations of transitional justice, this has not similarly taken root in approaches to evaluating the impact or success of these mechanisms. Sirleaf (2013) posits that local “perceptions of transitional justice mechanisms matter” in arguing for greater localisation of impact evaluation (p. 228). Localising impact evaluations therefore contributes to the necessary expansion of the larger call for increased attention to local expectations and experiences of transitional justice, and completes the picture of localisation by incorporating micro-level and perceived impacts.

Challenging conventional measurements of impact and success can usefully add depth to evaluating transitional justice, but brings with it a risk of conceptual stretching. In her discussion on the ever expanding universe of what constitutes a truth commission Skaar (2018) cautions “against diluting the definition (of a truth commission) so much that the core functions of truth commissions disappear among too many other broad aims and visions” (p. 405). Recognising this risk, I nonetheless argue in favour of a localised approach to conceptualising success and impact in TRCs, because such a framework grants agency to affected populations within a field that has been increasingly criticised as ‘externally imposed’. Localising conceptualisations of impact and success is an important step in the larger move to enhancing local ownership of transitional justice, and applies several of the tools identified by Ainley (2015) to aid in the challenging though inevitable journey towards finding “ways to judge the past” (p. 257).

Expectations

Localising impact evaluations of truth commissions centralises local expectations in defining success. Authors such as Ainley (2015) Sirleaf (2013) and Skaar (2018) highlight the significance of local expectations as both an important factor in determining truth commission success, and as a challenge to judging transitional justice success moreover.

Skaar (2018) highlights that the success of truth commissions “depends on a range of factors, which may be very context specific. One such important factor (which statistical work certainly fails to take into account) is the expectations tied to commissions” (p. 417). Local expectations of truth commissions are therefore important, though under-researched, concepts in transitional justice evaluation studies. She further asserts that “where public expectations are high, the ‘success’ of truth commissions is harder to achieve than in contexts where public expectations are low – simply because there is a mismatch between expectations and delivered results” (Skaar, 2018, p. 417). However, while Skaar’s (2018) argument certainly buttresses the importance of a localised framework for evaluating TRC impact and the role of local expectations therein, this research argues that it is far from complete, and replete with unexplained assumptions. What does she mean by success? How does she define expectations as ‘high’ or ‘low’? It appears that her argument rests on the alignment between institutional mandates and local justice needs. The apparent assumption that ‘low’ expectations inherently align better with institutional objectives and the odds of success are neither compelling nor evidenced, borders on tautological, and calls into question the overall utility of truth commissions, which then logically are only successful when local expectations of them are low. This research questions Skaar’s implicit assumption that expectations for processes deemed necessary to repair ruptured societies must be low in order for success to be achievable. Perhaps the problem is merely one of framing, and her point is better captured by Ainley (2015), who asserts that transitional justice is “often invested with unrealistic expectations” (p. 254) and agreement over what is realistically possible for these processes to achieve and facilitate is lacking. Failure, then, as the mismatch between local expectations and deliverable results is not about whether expectations are ‘high’ or ‘low’ but lies rather in the mismatch between them itself. This mismatch, the result of the unrealistic expectations tied to transitional justice limits meaningful measurements of success, as these mechanisms, are still “almost

always measured against someone's ideal concept of justice" (Ainley, 2015, p. 254).

A localised framework for evaluating TRC impact requires drawing the definition of what is possible for TRCs to achieve from the justice needs and TRC expectations of affected populations within the domain of the local. Correspondingly, measuring success then involves evaluating the degree to which these mechanisms achieve this. While reframing success in localised terms adds local legitimacy and arguably enhances the positive impacts that transitional justice stands to make, it does not in and of itself overcome the possibility of unrealistic expectations, or the need to manage them. When expectations and realistic outcomes are mismatched, where does the fault of failure then lie? Does it lie with affected populations (the local), for having too 'high' expectations of transitional justice, as Skaar (2018) would seem to suggest? Or does it lie with the institutions themselves, for failing to accommodate or deliver the justice needs of its purported beneficiaries? Should truth commissions do a better job of communicating their objectives and limitations in order to manage and lower expectations? Or should we push for truth commissions to adapt, to shift away further still from their current Western normative structure, towards incorporating the justice expectations and needs of the local and to work towards actualising impacts that reflect them? Chapter 11 provides insights into these (and other) questions that have been formed from this thesis's overall empirical examination of the relationship between ex-combatants and the TRC.

Outcomes

According to Ainley (2015), outcomes are, by far, "the most prevalent focus of transitional justice success research" (p. 242). Transitional justice mechanisms are predominantly judged "according to universal standards" (Ainley, p. 243). Skaar (2018) reinforces the primacy placed on such outcome evaluations of transitional justice impact, in a detailed discussion on the legacy of truth commissions in relation to the common outcome measurements of their contributions to peace, democracy and reconciliation. She summarises the results of this

dominant body of transitional justice evaluation research as mixed “at best” (Skaar, 2018, p. 410) and “inconclusive” regarding the “contribution of truth commissions to larger societal goals” (p. 413). Similarly, Ainley (2015) points out that within such universal outcome studies, results are “contradictory” (p. 243). She goes on to conclude that “it is in fact striking that so many commentators have expressed such strong positions (about outcomes) on the basis of so little reliable evidence” (Ainley, 2015, p. 246). Given that the links between truth commissions and their contributions to such normative and universal outcomes are “at best, tenuous” Skaar (2018) argues that it is “more useful to look at the more concrete impacts of truth commissions” (p. 416). Localising impact evaluations of truth commissions presents precisely such a concrete framework for conceptualising impact and evaluating outcomes. The primacy placed on truth-telling as an integral aim and outcome among truth commissions makes truth-telling a uniquely appropriate outcome against which to evaluate TRC impact. Chapter 10 of this thesis analyses the truth-telling work of the TRC in Sierra Leone in direct relation to its engagement practices with ex-combatants and their own micro-level experiences of non-participation, to reveal the narrow truth and unrealised transformative potential of the TRC, along this impact evaluation standard.

Mandate

A second common measurement of transitional justice success is through the use of mandates (Ainley, 2015). This is an attractive option because it narrows the outcome range to the examination of objectives listed in the founding documents of transitional justice mechanisms (Ainley, 2015). According to Ainley (2015), “looking at mandates makes sense as it is likely to be easier to judge whether a transitional justice institution has succeeded in achieving its mandate than it would be to prove, for instance, that it has achieved peace” (p. 246). Yet even mandates ascribe lofty ambitions to these institutions, and truth commissions in particular, whose mandates commonly call upon them to contribute to achieving larger societal goals such as peace and reconciliation. Recourse to mandates as a framework for impact

evaluations is further limited by Ainley's (2015) argument that these foundational documents are in themselves "political documents...subject to negotiation, and as important for what they leave out as what they include" (p. 247).

A localised approach to impact offers an alternative approach to the role of mandates in defining TRC success and impact. Rather than asking whether a TRC has achieved its mandated aims, a localised evaluation framework asks whether its mandate sufficiently reflected the justice needs of its local participants? This brings local expectations and justice needs to the centre.

Institutional Engagement and Impact

Ainley (2015) separates research that looks to processes of establishment and functioning from work that focuses on local engagement as separate factors in transitional justice impact evaluations. However, these can be usefully combined to capture the concept of institutional engagement, operationalised in detail in the first half of this chapter. Together, this category of outcome variables assesses impact along the lines of institutional legitimacy, local engagement, and coordination between mechanisms.

Ainley's (2015) discussion on the legitimacy of institutional establishment and the role of local engagement within transitional justice highlights concepts central to this thesis, though she gives them inadequate consideration. No definition of legitimacy is provided, and her claim that the legitimacy of the TRC's establishment in Sierra Leone is "rarely questioned" (Ainley, 2015, pp. 247-248) is in fact critically examined in Part Three of this very thesis. She holds that there is "no evidence...that supports the claim that public participation is essential" (Ainley, 2015, p. 248). However, she offers no clarity on what she considers 'essential', and leaves us with the unanswered question of: essential for what? This neglects the possible intrinsic value that local participation may have within transitional justice in general, and truth commissions in particular. Moreover, given that discussions of local engagement and participation find their origins in

the participatory programming literature, it is surprising not to see any engagement with this discourse. Despite these gaps, Ainley (2015) nonetheless draws attention to a number of important points that lend support for localising impact evaluations of transitional justice, and truth commissions in particular. She highlights that detailed examinations of transitional justice have criticised these processes for failing to “speak to local understandings of justice and reconciliation” (Ainley, 2015, p. 249). She further reinforces the primacy that local “demand for transitional justice” (Ainley, 2015, p. 250) should be given in the calculus to establish such processes in the first place. This begs the necessary but neglected question that localised impact measurements can uniquely answer: should transitional justice be considered successful when it does not meet the justice needs or expectations of its local participants?

Recommendations

A severely under-researched topic in the area of truth commission impact evaluations is that of recommendations (Skaar, 2018). The important legacy of truth commissions embodied in the recommendations these bodies produce, and what is and is not implemented, remains largely unexplored (Skaar, 2018). According to Skaar (2018), the “transformative potential (impact) of truth commissions arguably lies most directly in the body of recommendations put forward in their final reports” (p. 407). Much of the long-term legitimacy of these bodies is also determined by what is done, or not done, with the recommendations produced by truth commissions. As an avenue for impact measurement, recommendations and their implementation trajectories, therefore deserve greater consideration. This takes on special significance when viewed through a localised framework of impact evaluation by looking at whose needs are incorporated and privileged within the body of TRC recommendations in the first place, and the effects of implementation or non-implementation, on local populations.

Causality

Both Ainley (2015) and Skaar (2018) draw attention to the problem of establishing causality for transitional justice impacts. Greater attention to localising understandings of transitional justice experiences, among the local populations they directly affect, may offer pathways to revealing causal mechanisms on the micro-level. Even if isolating transitional justice impact is inappropriate, given the argument by some that transitional justice success can only be appreciated by acknowledging “interactions” and viewing transitional justice as “nested in social systems” (Ainley, 2015, p. 255), localised evaluations can still unveil such interactions. For instance, Chapter 7 shows that the concurrently operating DDR process significantly informed the justice and TRC expectations of ex-combatants. Additionally, interaction across transitional justice processes in Sierra Leone, also uncovered in Chapter 7, dispels conventional academic wisdom that has sought to explain ex-combatant non-participation within the TRC as stemming from fears of prosecution within the SCSL.

Isolating causality on the micro-level, through localised evaluations of transitional justice is only one possible contribution that such evaluations can make to the issue of causality in transitional justice. A localised approach to understanding transitional justice impact can also identify how the academic dilemma of isolating causality plays out on the local level of perceiving causality. Perceived causality cannot overcome the challenge of isolating causality, but nonetheless stands to illuminate local experiences of transitional justice, and holds value as it amplifies an understanding of transitional justice among actors that inhabit the domain of the local, and who directly experience these processes of justice-seeking (Sirleaf, 2013).

Finally, Ainley (2015) identifies a number of tools which she argues will aid in the development of approaches by which to judge the impact and success of transitional justice. A localised framework for evaluating impact incorporates several of the elements she identifies,

and therefore offers a holistic and nuanced approach to developing meaningful evaluation standards. In the first instance Ainley (2015) calls for deeper engagement with contexts in research, which localised evaluation approaches, measuring impact through its alignment with local expectations and experiences, uniquely provides. She also calls for greater variation in methodologies and research questions to add breadth to the current landscape of views in evaluation studies. Localised impact evaluation is well-suited to bottom-up knowledge production methods, which lends depth to findings and necessarily broadens the landscape of views when it centralises the experiences and needs of local populations. Finally, Ainley (2015) argues for greater reflexivity within impact research, which a localised approach usefully provides. At its core, foregrounding local justice expectations and experiences of transitional justice inherently acknowledges the limitations currently provided by the universalising and normative framework under which the bulk of impact evaluations operate. It presents an alternative approach, one that helps to shift away from external measurements of transitional justice processes and toward internal (local) measurements of success in the places where impact is most acutely felt (or absent) - within the contexts and communities in which they are implemented.

Conclusion

The second half of this chapter has constructed a localised framework of TRC impact evaluation, to extend emerging calls within transitional justice scholarship around the need for increased attention to the realm of the local. Micro-level research in transitional justice has gained traction within the field, though such work has yet to extend itself to impact evaluations. The field of impact evaluation in transitional justice has been revealed to contain severe shortcomings, stemming from the externalised and universalised normative roots of the field. A turn to the local, as foregrounded by this framework, presents a conceptual avenue to offer redress for these challenges. Chapter 10 empirically applies this framework to the TRC in Sierra Leone through the lens of non-participant ex-combatants, as a particular segment of the local

whose TRC experiences are demonstrated throughout this thesis as both necessary for demystifying the effects and success of this institution, but remain equally unexplored. Chapter 10 highlights the unaccommodating design and implementation of the TRC in Sierra Leone, among at least one segment of its identified population of local transitional justice participants. This begs the question of what such a new localised evaluation standard may mean for the future of truth commissions moreover. This question is addressed in Chapter 11, which synthesises the findings and contributions of this study and presents some recommendations for future truth commission research, policy and practice.

Part Three: Analysis

Part Three of this thesis dedicates itself to empirically analysing the relationship between ex-combatants and the TRC in Sierra Leone. It is divided into six chapters, along the three dimensions of expectations, experiences and impacts. The dimension of expectations examines the normative element of transitional justice in the context of this in depth case study examination. It comprises two chapters, of which the first (chapter 6) establishes the formal relevance and treatment of ex-combatants, as perpetrators, within the TRC's structure. Chapter 7 unearths both the institutional expectations of ex-combatant participation and compares and contrasts this against actual ex-combatant expectations of the TRC. In so doing it illuminates significant disparities between anticipated institutional expectations relating to the need for, and participation of ex-combatants in the TRC, as well as highlighting the justice needs and expectations held towards the TRC among this population. Two chapters address the dimension of experiences assess the structural application of transitional justice through the TRC in relation to ex-combatants in Sierra Leone (Chapters 8 and 9). In Chapter 8 the framework of institutional engagement developed in Chapter 5 is empirically applied to Sierra Leone's TRC to reveal multiple processes of exclusion faced by ex-combatants within this transitional justice process. Chapter 8 focuses on the institutional engagement dimension of participation, specifically non-participation, and illuminates the myriad sources of exclusion that led many ex-combatants not to participate within the TRC. Lastly Chapter 10 looks to impacts and analyses the practical effects of the TRC on the localised and individual level of the ex-combatant community. However, this division does not mean that these dimensions operate wholly in isolation of one another – indeed, expectations influence experiences, and experiences contour impacts. Additionally, experiences intersect with both the structural and practical dimensions of transitional justice.

EXPECTATIONS

Chapter 6

Establishing the Prescribed Relevance of Ex-Combatants in the TRC

Introduction

The purpose of this chapter is to identify the technical, formal or prescribed relevance of ex-combatants within the TRC in Sierra Leone. The terms 'technical', 'formal' and 'prescribed' are used throughout this thesis to describe the explicit institutional role accorded to TRC participants within the design of the TRC itself – housed within its foundational mandate and Final Report documents. This chapter uncovers whether ex-combatants belong to the population of local transitional justice participants within the context of the TRC in Sierra Leone. It answers the question of why we should consider ex-combatants within truth commission examinations. It further illuminates the prescribed role of ex-combatants as local TRC participants, establishing whether, on the institutional (or formal) level, this population was treated as simple participants or beneficiaries. This formal assessment establishes the appropriateness of this thesis's subsequent examination of the broader relationship between ex-combatants and the TRC. By examining whether, and to what extent, the TRC was designed to engage with ex-combatants, as transitional justice participants in its activities, and as subjects of its mandated aims (beneficiaries), this chapter clearly establishes empirically the need to recognise ex-combatants as necessary TRC participants (and beneficiaries). Ex-combatants play a significant role in shaping violence and are crucial to the success of peace-making and peacebuilding. Truth commissions are commonly understood to be "victim-centred" (Freeman, 2006, p 17) bodies that provide a platform for victim and larger societal healing and reconciliation. The role of ex-combatants specifically, and non-victims generally, has hitherto remained largely absent from the loci of truth commission practice and research. Through a qualitative analysis of the mandate and final report of the TRC in Sierra Leone, this chapter takes the first empirical

steps in revealing the explicit and institutional relevance of this necessary but neglected category of truth commission participants and beneficiaries. While the empirical analysis of this chapter expands the universe of the traditionally limited and victim-centred focus of TRC scholarship and practice, it only achieves the elucidation of their prescribed relevance. It establishes the significance of ex-combatants as TRC participants at the level of ritual (the TRC's structural level). However, it tells us little of the practice of engagement by this institution, or of the experiences of ex-combatants towards the TRC. The remaining chapters of this thesis examine, and criticise the treatment, and experiences, of ex-combatants within the TRC, in praxis.

For the purposes of uncovering their prescribed institutional relevance, the treatment of ex-combatants within the TRC in Sierra Leone refers to the roles specified for them within its design. Truth commission mandates and final reports form the blueprints of these institutions and define the body of experiences which constitute the population of their participants and beneficiaries. Assessing these foundational documents therefore usefully identifies the various categories of conflict experiences that these bodies mandate themselves to interact with. It additionally allows for analysis of the differential treatment of such categories of conflict experiences, to establish participation hierarchies. Uncovering the categories of relevant participants within the TRC, and squarely establishing the relevance of ex-combatants as belonging to the body of defined perpetrators identified within the TRC's participation structure, answers the question of with whom the TRC was designed to engage. This juxtaposes critically the normative participation model put forward by TRCs, as traditionally 'victim-centred' against the reality of the cross-cutting institutional participation requirements of such bodies, and forms the starting point of this thesis's critique of the binary justice model practiced by restoratively-oriented truth commissions. The remainder of this thesis dedicates itself to an in-depth examination of how the TRC pursued engagement with ex-combatants specifically, in practice, and builds a multi-level analysis of the expectations, experiences and impact of the TRC in

relation to ex-combatants in Sierra Leone. The remaining chapters of Part Three critically engage with questions of whose justice is sought in practice by truth commissions, and how such justice-seeking is practiced.

Truth commissions, while prioritising victim needs and participation over that of other experiences, nonetheless are built on the premise of local participation, inclusivity, and accessibility, and claim to have larger societal impacts. Investigating the space accorded to non-victim (ex-combatant) conflict experiences therefore forms a critical examination of the validity of these broader foundations, and the institutional measures laid out to achieve them. As demonstrated in Chapter 4, victim conflict experiences dominate transitional scholarship generally, and truth commission research particularly. This is problematic, as it assumes homogenous conflict experiences, as well as post-conflict needs and attitudes (Nussio et al., 2015). Given the scarcity of research acknowledging the role that perpetrators play in transitional justice processes generally, and truth commissions specifically (Leiby, 2009; Payne, 2008; Skjelsbæk, 2015) this chapter sheds empirical light on the institutional treatment of perpetrator experiences. Perpetrator conflict experiences are critical to truth commission effectiveness, as necessary participants therein. This is clearly evidenced in the design of Sierra Leone's TRC, in its mandate and Final Report. This empirical finding reinforces the need for transitional justice scholarship to engage robustly with non-victim conflict experiences, an enterprise, which has, to date, remained absent from its research agenda. It forms the starting point for this thesis's broader illumination of the complexity inherent to the spectrum of conflict identities currently misrepresented as neat binaries in research and practice, as shown in Chapter 4.

Through the application of discourse analysis tools, (see Chapter 2) on the TRC mandate and Final Report documents in Sierra Leone, a framework of institutional participation requirements has been developed, comprising three dimensions: formal participant categories (the formal incorporation of perpetrators), the operational treatment of

(identified) participants, and finally institutional incentives to promote participation within the Commission's substantive activities. The dimension of formal participant categories answers the question of whether perpetrators were relevant, as necessary participants, within the TRC. Identifying their operational treatment, through the second dimension of this framework answers the question of where their participation within the TRC's operations was sought. Lastly, an examination of prescribed participation incentives answers the questions of how this participation was sought, and what priority perpetrator participation specifically was given, within the TRC.

Mandates and Final Reports

Mandates are a crucial component of truth commissions. A mandate legally establishes a commission's functions, powers, parameters and ambitions and gives them legal standing (González, 2013). According to the International Centre for Transitional Justice (ICTJ), three general components are necessary for truth commission mandates to be effective and productive (González, 2013). This includes firstly their normative and policy orientations, which outlines their principles, objectives and functions. Secondly a truth commission mandate must specify its object of inquiry – the facts and crimes to be established and treated by the commission. Thirdly, it must specify its operational aspects – the powers, prerogatives and procedures that the commission will need in order to achieve its objectives. The first and third components are of particular value here – whether perpetrators form part of the objectives and functions of the commission, and if so, how they are treated in its operational procedures.

In addition to the full analysis of the truth commission's mandate, the TRC's final report has been selectively analysed to uncover the prescribed role of perpetrator participation therein. While mandates define the overall scope and objectives of truth commissions, they often lack procedural depth and detail. As such, they are not very telling of the full picture regarding perpetrator participation. This is not surprising, given that there is often a significant time lapse between the initial proposal for a truth commission, its legal embodiment in its

mandate, its formal establishment, and the different phases of its implementation¹⁷. Given the common temporal gap between the different phases of a truth commission, mandate documents are often confined to outlining their objectives and functions, thereby establishing the legal scope of these bodies. Procedural elements are generally only broadly laid out, and further elaborated in reports that are produced once a commission has actually been set up. This chapter examines the full breadth of relevant operational designs through an analysis of the Final Report issued by the TRC in Sierra Leone.

Institutional Participation Requirements of the TRC

Uncovering the role accorded to perpetrator experiences in truth commissions informs us of the current state of truth commission practice, and illustrates the need to dedicate further scholarly attention to this neglected category of conflict experiences. Conceptualising the relevance and treatment of perpetrators in truth commissions is particularly pertinent, as this transitional justice mechanism is lauded for its high levels of local inclusivity and participation. This chapter responds to increasing calls for the localisation of transitional justice research, by shedding empirical light on the treatment and significance of perpetrators in truth commissions. This institutional participation framework expands our understanding of the measures taken by truth commissions to accommodate diverse local experiences. This informs us uniquely of the extent and priority to which inclusivity and diversity in the work of truth commissions was present (at least at the normative and institutional levels), and can serve to highlight structural areas of improvement in the design of future ones (discussed in Chapter 11). Together, the formal incorporation of perpetrators as explicitly recognised TRC participants; their operational treatment; and the incentives established to encourage their participation constitute the framework of prescribed perpetrator treatment and relevance.

¹⁷ Some examples include Burundi, Liberia, and Sri Lanka (where a truth commission has yet to be established, at the time of writing).

Formal Perpetrator Incorporation

Establishing the explicit need for perpetrator participation as part of the objectives of the truth commission's mandate is the first contribution of this institutional framework. This falls under the first necessary component of truth commissions – their norms and policy orientations. Identifying perpetrator experiences and their participation within the functions and objectives of the Commission's mandate establishes their primary relevance therein. Evidence of perpetrator incorporation in the functions and objectives of the truth commission's mandate therefore constitutes their formal incorporation as necessary participants within the TRC. While this does accord the perpetrator experience a role, it does little more than recognise that both the processes of reconciliation and establishing a full historical record requires engagement with different conflict experiences. Formal incorporation is limited in that it only establishes a prescribed space for perpetrators in truth commissions, but does not inform us fully of the size or scope of this participatory space. The question of how these commissions, in their operations, set out to engage with these necessary experiences is answered in the subsequent two dimensions of this framework.

Operational Treatment

The second dimension of this framework addresses perpetrator treatment in the operational aspects of the truth commission. By examining the operational guidelines within the mandate and Final Report of the TRC, this study unearths how perpetrators were able to participate in Sierra Leone's truth commission's process. Truth commission activities fall into four general categories. Firstly, these bodies conduct investigations and fact-finding activities. Secondly they collect statements from people with relevant (the term 'relevant' here refers to explicitly defined TRC participant identities) conflict experiences (statement-taking), and thirdly they hold hearings, which may be public or closed. Finally, truth commissions usually produce reports detailing their practices, findings and recommendations (Skaar, 2018). To examine the operational treatment of perpetrators, the Final

Report of Sierra Leone's truth commission has been selectively analysed. The statement-taking and hearings procedures have been assessed for the existence and character of perpetrator incorporation. It is within these two categories of activities that truth commissions engage most directly and significantly with conflict-affected populations. Analysing the institutional requirements set forth around local engagement obligations and practices within statement-taking and hearings thereby reveals the commission's formal operational engagement ambitions with categories of local conflict experiences. Lastly, perpetrator treatment in the body of recommendations contained within the Final Report is examined. This assessment reveals the relative space accorded to perpetrators as possible beneficiaries of the TRC and of the legacy it hoped to impart. Specific consideration of perpetrators within the substantive operations of statement-taking and hearings, together with their relative treatment as recipients in the Commission's recommendations therefore demonstrates their operational treatment, at least on paper.

Participation Incentives

Prescribed incentives to encourage perpetrator participation forms the third and final dimension of truth commission design wherein perpetrator incorporation is observable. Beyond the explicit requirement for the participation of perpetrators in the TRC, established by the previous two dimensions, participation incentives inform us about the degree of participation sought from identified participant categories. The dimensions of formal incorporation and operational treatment indicate the necessity and location of perpetrator participation, while incentives reveal how much perpetrator participation was sought. Incentives can include amnesties in exchange for participation, confidentiality for participation and targeted sensitisation campaigns to promote participation.

Together, the formal incorporation and operational treatment of ex-combatants, as perpetrators, within the truth commission establishes the prescribed need for their participation. The inclusion and extent of participation incentives establishes the degree of institutional desire for

ex-combatant participation, and informs us of the prescribed priority placed on achieving such participation. Bernath (2016) points to the divergence that can exist between formal processes of inclusion and practical processes of exclusion in her examination of ‘complex political victims’ in Cambodia’s ECCC. It is therefore necessary to be mindful of this potential gap between the ritual of participation, against the reality of participation, addressed in Chapters 8 and 9. Together, this generates a comprehensive understanding of the relationship between ex-combatants and the TRC in Sierra Leone.

Formal Incorporation of Perpetrators in the TRC

The formal incorporation of perpetrators is evident when this category of conflict experiences is explicitly included in the objectives and functions of a truth commission’s mandate. This establishes their explicit relevance as necessary truth commission participants. The formal incorporation of perpetrators encompasses the ex-combatant population when this population is defined to belong to this category of conflict experiences. Ex-combatants, as falling within the definition of perpetrators set forth in the TRC in Sierra Leone, has already been established, in Chapter 1.

The formal incorporation of perpetrators in Sierra Leone’s TRC is undeniable. This incorporation is most clearly evident in part III of the commission’s mandate, which establishes its functions and objectives. Here, article 6b. specifies a role for “perpetrators to relate their experiences” in the commission and its objective to create a “climate which fosters constructive interchange between victims and perpetrators” (TRC Act, 2000, Art. 6(2b)). An explicit role for perpetrators within the commission’s functions and objectives is evidenced as early as the Lomé Agreement of 1999, which calls upon the (proposed) commission to “provide a forum for both the victims and perpetrators of human rights violations to tell their story” (Lomé Peace Agreement, 1999, Art. XXVI).

The role and relevance of perpetrators is additionally repeated throughout the Commission’s Final Report, as part of its objectives and

functions¹⁸, which further highlights their formal inclusion as a consistent feature in the TRC's design. Within the larger non-victim category, perpetrator experiences are given the greatest degree of prescribed consideration in the truth commission's design. References to perpetrators significantly outnumber references to other non-victim experience categories (in particular witnesses, bystanders and third-parties) contained within the TRC's mandate and Final Report. As such, a particular focus on this group is warranted.

Additionally, the Commission's Final Report (2004) defines reconciliation, one of its central objectives (TRC Act, 2000, Art. 6(1)), as requiring perpetrator participation. Reconciliation is recognised as evolving from restorative justice, which "focuses on restoring relations, as far as possible, between victims and perpetrators and between perpetrators and the communities to which they belong" (TRC Final Report, 2004, p. 19). According to the TRC, perpetrator participation was therefore necessary in order to achieve both micro and macro-level reconciliation. Community (macro-level) reconciliation is defined as the restoration of "relations between the community and the perpetrator" that requires "understanding and sharing experiences", and individual (micro-level) reconciliation requires "that the victim and perpetrator meet" (TRC Final Report, 2004, p. 19).

Ultimately, the prescribed significance of perpetrators in Sierra Leone is clear. The commission's mandate explicitly identifies perpetrator participation as part of its objectives and functions, and this is reinforced throughout its Final Report. The clear and consistent observation of the formal incorporation of perpetrators in Sierra Leone highlights the explicit and necessary participation of perpetrators within the TRC. The persistent requirement for perpetrator participation resoundingly establishes their relevance as TRC participants.

Operational Treatment of Perpetrators in the TRC

Perpetrators play a clear role in Sierra Leone's TRC. This has been empirically demonstrated through their formal incorporation within the

¹⁸ See for instance Vol. 1, Ch. 1 (Mandate) in the TRC Final Report, 2004

Commission's mandate. While this establishes their relevance, it does not reveal where their participation is sought. Their prescribed operational treatment reveals the measures laid out by the Commission to formally enable perpetrator participation in its activities. The following section assesses the operational treatment of perpetrators, as participants, within the statement-taking and hearings procedures of the TRC, and their treatment within the Commission's Final Report recommendations.

Statement-taking

In Sierra Leone, a significant measure of the operational treatment of perpetrators resides in the Commission's statement form. Four categories of statement-givers were identified as necessary to the statement-taking work of the TRC – victims, perpetrators, witnesses and third-party statement-givers. To accommodate this, the Commission's statement-taking form contained four sections, one for each conflict experience (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 164). Effectively the TRC thereby created a perpetrator-specific statement-taking form (this also holds true for the other categories). This showcases an operational relevance for perpetrators within the statement-taking work of the Commission, as this experience was specifically incorporated into the design of the statement-taking form.

Notably, the statement-takers manual in the Commission's Final Report (2004, Vol. 1, Appendix 1) emphasises another strength of its multiple-experience statement forms: it allowed for individual statement-givers to fill in several statement-form sections, thereby recognising the complexity of individual conflict experiences. The statement-takers' manual specifies that it was "crucial for statement-takers to understand that the statement-giver can belong to more than one category" and allowed individual statement-givers to fill in multiple sections to accommodate their multiple conflict experiences (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 186). The ability for statement-givers to provide 'complex' or 'composite' statements importantly reflects a prescribed recognition of the complexity of individual conflict experiences within the design of the TRC. At least on paper, the TRC

took a significant step to break the traditional binary of guilt versus victimhood, by allowing statements collected to reflect multiple conflict experiences on the individual statement-giver level.

Hearings

Neither the Commission's mandate nor Final Report specify operational measures targeting perpetrators specifically in its hearings operations. While perpetrator participation was desirable, as discussed in participation incentives (below), perpetrators were not explicitly named within the operational guidelines of the Commission's hearings activities.

Recommendations

According to Skaar (2018), producing recommendations that address abuses "and make similar abuses less likely to be repeated" constitutes one of the "most fundamental undertakings of truth commissions" (p. 407). She further asserts the significance of truth commission recommendations by arguing that the "transformative potential of truth commissions" as a tool for deterrence "lies most directly in the body of recommendations put forward in their final reports" (Skaar, 2018, p. 407).

Calls for the TRC within the Lomé Peace Agreement laid out the obligation of the (proposed) TRC to submit a report containing recommendations "for the rehabilitation of victims of human rights violations" (Lomé Peace Agreement, 1999, Art. XXVI; TRC Final Report, 2004, Vol. 1, Ch. 1, p. 24). The TRC's obligation to produce a report containing recommendations is further contained within Part III of the TRC Act of 2000, which specifies that the TRC was to "investigate and report on the causes, nature, and extent of the violations and abuses" under its purview (Art. 6(2)). Part V of the TRC Act (2000) establishes most concretely the Commission's obligation to produce a report with:

recommendations concerning the reforms and other measures...needed to achieve the object of the Commission, namely the object of providing impartial historical record, preventing the repetition of the violations or abuses suffered,

addressing impunity, responding to the needs of victims and promoting healing and reconciliation (Art. 15(2)).

The TRC was therefore clearly obligated to produce a report containing recommendations, the nature of which were considered necessary to the fulfilment of its core aims.

An examination of the treatment of perpetrators within the TRC's recommendations, and in particular its reparations framework, reveals the relative space allotted to perpetrators as beneficiaries of the TRC, beyond constituting simply participants within its activities. Chapter 1 has presented a typology of local transitional justice participants, comprising participants, beneficiaries and stakeholders. This distinction between participants on the one hand, and beneficiaries and stakeholders on the other, is one of instrumental and intrinsic treatment, respectively. The relative treatment of ex-combatants as part of the recommendations produced by the TRC, informs us, on the prescriptive level at minimum, of their institutional relevance as either instrumental or intrinsic in character. Their participatory significance can be considered instrumental when they are largely absent from the recommendations agenda, which instead reinforces the primacy of victims. However, their participation takes on intrinsic value when they are meaningfully incorporated into a TRC's recommendations; a recognition that ex-combatants belong not only to the TRC's population of necessary participants, but also to its body of beneficiaries. This recognition of perpetrator justice needs indicates a breaking of conventional truth commission binaries that privilege (constructed) victim experiences.

The TRC's Final Report recommendations (2004) were "designed to facilitate the building of a new Sierra Leone based on the values of human dignity, tolerance and respect" (Vol. 2, Ch. 3, p. 117). In line with the TRC's original mandate, recommendations were aimed at "preventing the repetition of the conflict, addressing impunity, responding to the needs of victims and the promoting of healing and reconciliation" (TRC Final Report, 2004, Vol. 2, Ch. 3, p. 117). The priority of victims is immediately apparent as the only prescribed

category of the local contained within the overall summary of the Commission's recommendations.

The TRC's recommendations were divided into three main categories; imperative, work towards and seriously consider (TRC Final Report, Vol. 2, Ch. 3). Imperative recommendations comprised the Commission's most urgent and necessary recommendations. Secondly, 'work towards' recommendations required putting in place the building blocks for their actualisation. Finally, 'seriously consider' recommendations required only that the government 'seriously evaluate' the possibility of their implementation without attached timelines.

The recommendations produced by the TRC fall into the following categories: the protection of human rights, establishing the rule of law, the security services, promoting good governance, fighting corruption, youth, women, children, external actors, mineral resources, the TRC and the SCSL, reparations, reconciliation, the national vision for Sierra Leone, archiving of Commission documentation, dissemination of the TRC Report, and the follow-up committee (TRC Final Report, 2004, Vol. 2, Ch. 3).

Reparations significantly reveal the TRC's body of intended beneficiaries, as individuals and groups whose wartime experiences of suffering required redress in the form of reparations. In designating beneficiaries, the TRC's reparations programme legitimises the suffering of its designated beneficiaries, while simultaneously invalidating potential experiences of suffering among those that fall outside this framework of explicitly defined beneficiaries, as 'unworthy' of receiving repair. In Sierra Leone's TRC, reparations fall into the category of 'work towards' recommendations (TRC Final Report, 2004, Vol. 2, Ch. 3). Reparations are given special consideration as part of the TRC's recommendations framework. While the TRC was not explicitly mandated to produce a reparations programme, as part of its recommendations, within the Final Report, the provision of reparations was nonetheless considered to fall within its "enabling legislation" (TRC Final Report, 2004, Vol. 2, Ch. 4, p. 227) and presented as

instrumental to addressing ‘the needs of’ victims (TRC Final Report, 2004, Vol. 2, Ch. 4; Williams and Opdam, 2017). The TRC’s reparations programme was designed to address victims specifically and exclusively. The wide-reaching reparations programme proposed by the TRC was constructed primarily around ensuring the “rehabilitation of the victims through the distribution of service packages and symbolic measures” (TRC Final Report, 2004, Vol. 2, Ch. 4, p. 232). Reparations were proposed in the following areas: health, pensions, education, skills training and micro credit, community reparations, and symbolic reparations.

The Final Report (2004) clarifies that the Commission “did not make a distinction between civilians and ex-combatants for the purpose of their eligibility as beneficiaries of the reparations programme” (Vol. 2, Ch. 4, p. 245). It goes on to stipulate that “a reparations programme is not based on a person’s past actions but rather on what violations have been suffered by him or her” (TRC Final Report, 2004, Vol. 2, Ch. 4, p. 245). Together, this inclusive approach towards eligibility and acknowledgement of suffering among ex-combatants indicates acknowledgement of their complex victimhood and their eligibility as possible beneficiaries within the TRC. However, the value of this inclusive approach is diminished when considering that the TRC’s reparation programme goes on to qualify that “ex-combatants have already benefitted from several programmes” (TRC Final Report, 2004, Vol. 2, Ch. 4, p. 245). Furthermore, the TRC, recognising the practical limitations of any reparations programme, put in place a hierarchy of needs underpinning eligibility for reparations among victims, with “vulnerability” at its base (TRC Final Report, 2004, Vol. 2, Ch. 4, p. 234). Together, prior access to peacebuilding benefits, and the pragmatically necessary hierarchy of needs imposed on the reparations programme, serve to significantly reduce access to such benefits among the ex-combatant population in particular. This is compounded when considering references to perceptions of ex-combatants and perpetrators as being ‘rewarded’ or better taken care of than victims, and the TRC’s duty to provide an important counterbalance to this (TRC Final Report, 2004, Vol. 2, Ch. 4). The

need to counterbalance rewards received by perpetrators through other programmes, notably the DDR programme, is further highlighted in the Report's (2004) emphasis that monthly pension needs for victims should take into account "the amounts provided to ex-combatants on a monthly basis under the NCDDR programme and the pensions received by the war wounded SLA soldiers" (Vol. 2, Ch. 3, p. 195). Lastly, ex-combatants who received benefits from other programmes, i.e. DDR, were excluded from consideration of TRC reparations, to avoid "providing double benefits" (TRC Final Report, 2004, Vol. 2, Ch. 4, p. 245). This further reinforces the perception that benefits for ex-combatants constitute 'rewards' for wartime participation, but are measures of necessary 'rehabilitation' for victims. The logic underpinning this pragmatic hierarchy of needs for accessing reparations also failed to account for significant implementation failures in DDR (described in Chapters 3 and 7). Participation in DDR did not guarantee the provision of its reintegration benefits, as highlighted by interviewed ex-combatants in Chapter 7. DDR's broken promises not only prevented successful ex-combatant participation therein, but also institutionally marginalised them from being considered legitimate beneficiaries within the TRC's reparations framework. Ultimately this diminished legitimate access to such benefits among ex-combatants, moving them further down the hierarchy of presumed vulnerability through which these benefits were to be distributed.

Ultimately, the reparations programme put forward by the TRC did not explicitly exclude ex-combatant participation, and established concretely their eligibility for reparations, on the basis of the recognition of their experiences of suffering. This recognition of complex victimhood lends some support for the designation of ex-combatants as potential beneficiaries of the TRC. However, the role of vulnerability in determining eligibility nonetheless creates a hierarchy of needs, and persistent reference to the rewards ex-combatants were given by other programmes, without consideration of their implementation deficits, indicates their practical disadvantage within this reparations structure. There is therefore insufficient evidence to definitively claim ex-

combatants to constitute part of the genuine body of local TRC beneficiaries in Sierra Leone. The primacy placed on victims persists. The treatment of ex-combatant perpetrators, as either holding intrinsic or instrumental value therefore requires investigation of the TRC's work along its practical dimension, and the subsequent (non-)implementation of its recommendations and reparations programme in particular. This is undertaken in Chapter 10.

Participation Incentives in the TRC

Identifying incentives for perpetrator participation reveals the degree to which the TRC desired their engagement, and therefore informs us of both how operational participation (within the substantive statement-taking and hearings activities) was to be sought, and how important perpetrator participation was formally considered (i.e. the priority given to garnering ex-combatant participation). Participation incentives can take the form of targeted outreach programmes, the use of amnesties, and incentives related to statement-taking and hearings.

Outreach and Sensitisation

Sierra Leone's TRC operated alongside the Special Court. The concurrent operation of transitional justice mechanisms is considered to have impacted perceptions and expectations of the Commission, by the perpetrator community specifically. According to the TRC's Final Report (2004) the co-existence of the Special Court alongside the TRC "raised the fears of many witnesses concerned about the relationship between the TRC and the Special Court" (Vol. 1, Ch. 5, p. 160). According to the TRC itself, perpetrators were concerned over the concurrent operation of the two institutions (Shaw, 2007) and were "reticent to talk to the Commission" as they feared "being indicted by the Special Court" (TRC Final Report, 2004, Vol. 1, Ch. 1, p. 167). The validity of these (anticipated) perpetrator fears are called into question in Chapter 7 of this thesis, which illuminates ex-combatant justice needs and their expectations towards the TRC, as well as the anticipated (institutional) expectations around ex-combatant attitudes towards the TRC (held by TRC entrepreneurs).

To promote perpetrator participation and address assumed fears around participation, the Commission implemented “targeted sensitisation” campaigns “specifically designed” and “aimed at particular audiences such as combatants and ex-combatants” (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 158). Local NGOs and ICTJ were heavily involved in these targeted sensitisation efforts to promote perpetrator participation and education around the work and aims of the TRC in relation to the Special Court (TRC Final Report, 2004, Vol. 1, Ch. 5). A study on ex-combatant attitudes towards the work of the Commission (PRIDE and ICTJ, 2002) revealed that ex-combatants from all sides generally supported the Commission and that this support grew the more they understood its mandate (Hayner, 2004; PRIDE and ICTJ, 2002).

Amnesty

The TRC operated under a blanket amnesty for ex-combatants, enacted by the Lomé Peace Agreement (1999). It therefore was not imbued with the power to grant perpetrators amnesty in exchange for their participation. The existence of a broader amnesty could be considered a TRC participation incentive as it removed the threat of prosecution more generally for ex-combatants. However, the fact that this was not enacted by the TRC itself limits the ability to view this as an institutional participation incentive. Rather, it can, at best, be considered as part of the broader post-conflict framework to remove barriers to ex-combatant participation in peace, and not as a TRC participation incentive specifically. The relationship between amnesty (as the absence of punishment) and TRC participation is discussed in greater detail in Chapter 7, where the logic of assumed perpetrator participation practiced by the TRC is empirically interrogated.

Collecting Perpetrator Statements

Incentives to promote the participation of perpetrators in a truth commission’s statement-taking work can include confidentiality, the guarantee of non-incrimination, as well as sensitisation training for statement-takers to reduce possible social stigmatisation that could hinder perpetrator participation in statement-collecting.

In Sierra Leone, all individual statement-givers, including perpetrators, had the right to request confidentiality for their statements (TRC Final Report, 2004, volume 1 appendix 1, pp 194-195). The ability to request confidentiality for statement-takers has further significance for perpetrators, as “no information given to the Commission on a confidential basis will be provided to the Special Court” (TRC Final Report, 2004, Vol. 1, Ch. 5). The effort to clearly separate the work of the TRC from that of the Special Court reinforces the special utility of confidentiality for perpetrators, due to their purported unique security concerns about perceived ties between the Commission and the Special Court. Further emphasis on the separation of the Special Court and the TRC can be found in the Final Report’s statement-takers manual (2004, Vol. 1, Ch. 5). The manual specifies the Commission’s obligation to uphold the right of statement-givers to avoid self-incrimination. No court of law, including the Special Court, was allowed to use the testimony or statements provided by any person at the Commission, and perpetrators specifically, to prosecute participants. While this right was granted automatically to all statement-givers, specific reference is made to perpetrators’ right to avoid self-incrimination (TRC Final Report, 2004).

In addition to the establishment of a perpetrator-specific statement-taking form, the TRC took steps in its statement-takers manual to encourage perpetrator participation. (TRC Final Report, 2004, Vol. 1, Ch. 5). Specifically, the manual (TRC Final Report, Vol. 1, Ch. 5) outlines the need for statement-takers to be considerate towards perpetrators, to “avoid judging” the perpetrator, “whatever the violations committed” and to “keep in mind that a lot of perpetrators...are also victims as well” (p. 190). Recognition of the complexity of individual conflict experiences is once again evidenced, within the institutional framework of the TRC. Incentives to promote perpetrator participation in the statement-taking work of the TRC thereby comprise the ability to provide confidential statements, the accompanying guarantee of non-incrimination, and the sensitisation measures put in place to educate statement-takers on collecting perpetrator statements, which also explicitly acknowledged the reality

of complex conflict experiences among statement givers.

Hearings

Incentives to promote perpetrator participation within the hearings activities of a truth commission may take on the form of private hearings, the Commission's obligation to corroborate victim and witness testimony with named perpetrators, and measures aimed at ensuring procedural fairness for perpetrator participants.

The TRC's Final Report (2004) provides details on the nature of its hearings. While public hearings were held, private or closed hearings were also an integral part of the hearings. Closed hearings were designed first and foremost to "allow children and victims of sexual abuse to testify in a private setting" (TRC Final Report, 2004, Vol. 1, Ch. 1, p. 180). "Closed hearings were also arranged for alleged perpetrators or ex-combatants who were reluctant to speak before the public for security or other reasons" (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 180). While perpetrator participation was therefore not the primary concern of the hearings, their participation was considered necessary enough to warrant consideration of their specific security (or other) concerns in order to promote their participation.

Secondly, the TRC was obligated to make "all reasonable efforts to locate alleged perpetrators and invite them to make statements or to participate in a hearing and relay their own version of events" (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 182) in cases where victims named perpetrators. This promotes perpetrator participation, as it required the Commission to make a good faith effort to corroborate the testimonies of persons and reinforces the fact that an accurate and impartial historical record requires both victims and perpetrators to share their experiences. Encouraging alleged perpetrators to share their 'side' of events reinforces the position of the truth commission as an impartial, non-prosecutorial body, and validates the significance of perpetrator experiences as part of the grander conflict narrative, instead of treating victim testimony as fact, and sufficient.

Measures to ensure procedural fairness for perpetrators in hearings largely echo the participation incentives previously discussed, but also reinforce the Commission's desire to encourage voluntary perpetrator participation. Specifically, counsel was made available for perpetrators and they were not compelled to answer questions.

Sierra Leone's TRC enacted three types of incentives to encourage perpetrator participation in its hearings. Firstly, through holding private hearings, in recognition of the security concerns of perpetrators. Secondly, the Commission was obligated to (attempt to) corroborate victim testimony with named perpetrators, reinforcing the role that this conflict experience plays in the establishment of an accurate and impartial historical record. Finally, the TRC adopted specific measures to ensure procedural fairness for perpetrators in hearings by guaranteeing them access to counsel and clarifying that they could not be compelled to answer questions.

Conclusion

This chapter has uncovered the prescribed treatment of ex-combatants within the design of Sierra Leone's TRC. The central role that ex-combatants play in both the making of war and peace logically establishes a role for them within transitional justice. Yet, examinations of transitional justice in relation to ex-combatants remain sparse. This chapter has begun to address this empirical gap in transitional justice scholarship. Chapters 1 and 4 have established the theoretical need for examining the transitional justice experiences of perpetrators. This chapter has empirically revealed an explicit role for perpetrators within Sierra Leone's TRC. In so doing, this study has empirically established, for the first time, the prescribed significance of perpetrators as necessary participants in a post-conflict truth commission.

Along the dimension of formal incorporation, which establishes whether or not perpetrators are defined as necessary participants for a truth commission to fulfil its objectives and functions, perpetrator incorporation has been irrefutably observed. This is significant, as it

establishes empirically, for the first time, an explicit relevance for perpetrators within the ambit of post-conflict truth commissions. Claims that post-conflict truth commissions solely address victims and their experiences are therefore incorrect and do not reflect the breadth of formal incorporation and cross-cutting participation requirements that have been revealed through this analysis of Sierra Leone's TRC.

Selective analysis of the TRC's Final Report (2004) reveals the operational treatment of perpetrators within the Commission's design. Operational treatment encompasses the exact truth commission activities wherein perpetrator participation was formally specified, enabling an examination of the activities requiring perpetrator participation. Specifically, truth commission statement-taking, hearings, and the body of the TRC's Final Report recommendations have been analysed. In Sierra Leone, the use of multiple-section statement forms particularly highlights the Commission's commitment to perpetrator participation as an effort to break away from the binaries of simple perpetrators and victims as participants. However, despite breaking conflict experience binaries in the composition of its statement form, and its mandate to form a platform for the "constructive interchange between victims and perpetrators" (TRC Final Report, 2004, Vol. 1, Ch. 1, p. 25) the TRC's recommendations reveal perpetrator participation to be largely instrumental in design. This reinforces the persistent primacy placed on addressing the needs of 'victims'. The possibility for providing 'complex' statements that signalled an institutional breaking of simple identity binaries is contradicted by the simultaneous reassertion of a binary justice-seeking model that privileged victims and disadvantaged perpetrator participation in the TRC's reparations framework.

Finally, incentives to promote the participation of perpetrators within the TRC's activities reveals the priority accorded to their engagement within the TRC's design. Targeted outreach programmes to educate perpetrators on truth commission activities and objectives were undertaken as a participation incentive. Additionally, confidentiality and non-incrimination in statement-collecting, and the sensitisation of

statement-takers to the experiences of perpetrators in the statement-taking work of the Commission reveals formal efforts to promote perpetrator participation. In the case of hearings, incentives to promote perpetrator participation included private hearings, the TRC's obligation to corroborate victim and witness testimony, and measures to ensure the fair procedural treatment of perpetrator participants.

Establishing the prescribed relevance of ex-combatants as part of the population of necessary truth commission participants is the first necessary step in this thesis's larger exploration of the relationship between ex-combatants and the TRC. Perpetrators are a recognised and relevant category of conflict experiences within Sierra Leone's TRC. However, the gap between prescription and practice can be immense, and while this institutional mapping clearly establishes perpetrator relevance, it does not illuminate their actual treatment by the commission in practice. Bernath's (2016) analysis of the ECCC in Cambodia has already demonstrated that formal incorporation does not guarantee meaningful participation opportunities. The remaining chapters in Part Three of this thesis examine the practical treatment of ex-combatants against their prescribed incorporation in the TRC, as established in this chapter. The ritual of prescribed possibilities for ex-combatant participation, as perpetrators, within the structure of the TRC are clear; the reality of their participation will be explored and interrogated in subsequent chapters.

Chapter 7

Managing Expectations: *understanding ex-combatant perceptions of the TRC in Sierra Leone*

When the TRC came I was happy because it came to bring us peace and to fix the problems from the war. The TRC was for helping us rebuild Salone (Sierra Leone) together, so that we could all prosper¹⁹.

Introduction

This chapter examines local expectations of the TRC, among non-participant ex-combatants in Sierra Leone. It contextualises these expectations within the broader framework of concurrent peacebuilding efforts, in particular the SCSL (or the Court) and the DDR process. Non-participant ex-combatant expectations are treated in context, placing the meanings that they attach to the TRC at the core of this investigation. Examining ex-combatant expectations of the TRC involves unearthing the views held by this population with regards to the purposes and aims of the TRC. It captures the question of what the TRC was understood to do in Sierra Leone by this population of identified local participants (see Chapter 6) who chose not to participate therein. Analysing ex-combatant expectations of the TRC brings affected populations to the centre of this study. This is distinguished from subsequent explorations of ex-combatant experiences of the TRC. Chapter 8 analyses their exclusion from institutional engagement; Chapter 9 uncovers the problematic and restricted model of participation which both limited and deterred their participation; and Chapter 10 examines the impacts of the TRC on this category of transitional justice participants. In analysing the relationship between ex-combatants and the TRC in Sierra Leone, this thesis therefore identifies the full breadth and depth of this relationship, through the micro-level lens of ex-combatants. This lends a longitudinal character to this exploratory research, despite its retrospective approach. This disaggregation to the level of the local

¹⁹ CDF Ex-combatant interview, Bo, March 13, 2017.

transitional justice participant (ex-combatants) examines their relationship with the TRC along the dimensions of expectations, experiences and impacts against the normative (rhetoric), structural (ritual) and practical (reality) dimensions of the TRC, thereby engendering an analysis that situates TRC evaluation in relation to the populations they are designed to directly affect.

Chapter 5 shows that definitions and measurements of success in transitional justice vary. Evaluations commonly look to the factors of outcomes; mandates; processes; affected population involvement (inclusivity); adherence to universal normative standards; and cost-effectiveness (Ainley, 2015). This thesis opens the door to new bottom-up measurements of transitional justice impact, by placing affected population (specifically ex-combatant) understandings of these processes at the fore. Mandate-driven assessments of transitional justice follow a matching process, whereby identified mandates and aims are evaluated against their subsequent achievement or absence, as a measure of success. However, such work does not recognise the discrepancies between objective aims and locally perceived ones. It also fails to consider diversity in priorities among affected populations, which invariably inform micro-level understandings of justice, and consequently post-conflict needs. Understanding expectations held by local transitional justice participants themselves, within the domain of the local, therefore provides a new empirical avenue for evaluations of inclusivity, success and effectiveness, through the lens of affected population experiences. An empirical examination of TRC expectations among ex-combatants is also used as a basis for comparison against their experiences of the TRC (Chapter 9) and the perceived impacts of this mechanism of transitional justice on this population (Chapter 10). The question of localising assessments of success and impact in relation to transitional justice is addressed in detail, in Chapter 10 of this thesis.

While this chapter takes as its locus non-participant ex-combatant expectations held towards the TRC in Sierra Leone, empirical work for this thesis has included data collection from members of civil society

involved in the advocacy and establishment of the TRC, and TRC officials (as actors belonging to the wider body of TRC entrepreneurs). These interviews highlight the normative assumptions around the nature of participation that pervade the discourse and practice of transitional justice. An analysis across these two levels reveals significant deviation in expected ex-combatant attitudes ('anticipated expectations') towards the TRC held by TRC entrepreneurs responsible for its establishment and in charge of its operations, compared with actual ex-combatant attitudes. This demonstrates empirically the need to question the normative assumptions underpinning anticipated expectations held by conflict-affected individuals whose participation is necessary for TRC effectiveness.

Transitional justice has come to be "regarded as inevitable and commonplace for anyone wishing to address the issue of past violations" (Dube, 2011, p. 178). According to Mutua (2015) "transitional justice has become an article of faith as a catalyst for reclaiming societies in political and social imbalance and dysfunction" (p. 1). Chapter 4 has already shown that the need for transitional justice, with its underpinnings in the broader human rights movement, has become universalised (Lutz, 2006). The normative foundations of transitional justice as a Western paradigm are also increasingly challenged by critics who highlight the practical limitations of such universalising practices²⁰. Such criticisms of the Western and normative assumptions within transitional justice usefully call into question what transitional justice achieves and why it is deemed desirable, necessary or even inevitable. However, as Chapter 4 has highlighted, the normative assumptions intrinsic to transitional justice extend beyond this, and have engendered a binary identity framework of transitional justice participation. The doctrine of transitional justice doesn't just dictate to us *what* is considered good (or necessary), but also *who* is good, and deserving of its benefits, and correspondingly *who* is bad, and in need of punishment, or forgiveness. It is this second normative limitation in particular that this chapter addresses. Despite

²⁰ See for instance Brudholm, 2008; Dube, 2011; Lutz, 2006; Mutua, 2015.

the traditional emphasis placed on the innocent victim within the discourse, critical voices that challenge the problematic binaries of victim and perpetrator participant identities are getting louder (see Chapter 4). The mismatch between normative and institutional rhetoric ('anticipated expectations') against the realities of individual conflict experiences and justice needs ('actual expectations') within the domain of the local are starkly revealed in this chapter. Highlighting these discrepancies contributes empirical depth to the emerging scholarship around the problematic normative assumptions that define and privilege inflexible, archetypal, and binary conflict identities and transitional justice beneficiaries.

Ex-combatant interviews conducted across Sierra Leone highlight that expectations towards the TRC did not emerge in isolation. Rather, they were informed by the larger post-war environment. According to Mansaray, "DDR, the Court (SCSL) and the TRC were here to repair the country after the war. The government brought them to make peace"²¹. In particular, the processes of DDR (which was nearing completion at the time of the TRC's establishment) and the SCSL (which operated alongside the TRC) strongly influenced ex-combatant perceptions of the TRC, its purposes and their receptiveness towards it. Additionally, interviews conducted on the institutional level among TRC implementers and brokers, adds breadth to uncovering the relationship between the TRC and ex-combatants. In an interview in Freetown, one former TRC official explained that, "we sought the engagement of the ex-combatants in the TRC. We needed them to come forward and confess for the Commission to be effective. We needed their participation"²². Institutional-level data reveal the recognised need for ex-combatant inclusion, while highlighting discrepancies across institutional and micro-levels, in the challenges understood around their participation. Additionally, this chapter sheds empirical light on the origins and substance of these expectations. It further highlights the impact of concurrent peacebuilding operations on

²¹ RUF Ex-combatant interview, Makeni, August 21, 2018.

²² TRC Official interview, Freetown, May 11, 2017.

local understandings of the TRC, and contributes to the nascent sub-field of transitional justice scholarship that highlights both the need for contextualised, micro-level understandings of transitional justice, and the local variance in attitudes held towards these processes²³.

Chapter 2 has clarified the necessarily retrospective character of this study, which must contend with the challenges posed by recall bias. This has particular implications for the examination of expectations, the focal point of this chapter. While this broader research is interested in constructing a comprehensive understanding of the relationship between ex-combatants and the TRC, it is also interested in treating TRC expectations as distinct from TRC experiences and impact, which is more problematic. To overcome this, interview questions were carefully formulated, to probe respondents' memories of not only what they expected the TRC to do, but also why they held such expectations, how they expected the TRC to fulfil them, what their experiences of other transitional processes were, and whether and how they perceived such processes as linked. Differences revealed between respondent expectations and experiences, in interviews, validates this research's relative isolation of expectations as distinct from experiences, though this cannot be fully disentangled. Jonah describes his expectations of the TRC as an institution "to help people understand what happened to us (ex-combatants) in the war; to provide benefits for all of us who suffered"²⁴. Jonah contrasts this against his subsequent experience of the TRC, as a non-participant ex-combatant, sharing that:

But when the TRC came they (the statement-takers) told us we were perpetrators for fighting in the war and that it was our job to confess, so that the victims who did not fight could receive reconciliation. I thought the TRC was for all of us, and to help everyone. But when it came it only chose a few to help, not the fighters, and it did not bring the benefits it had to, for anybody²⁵.

²³ See Aguilar et al., 2011; Millar, 2011; Nussio et al., 2015; and Samii, 2013

²⁴ RUF Ex-combatant interview, Freetown, July 3, 2018.

²⁵ Ibid.

Ex-combatants and the TRC

Chapter 4 has argued that truth commissions currently operate under a problematic logic of assumed perpetrator participation. This logic holds that the non-judicial character of truth commissions sufficiently incentivises ex-combatants to come forward and seek forgiveness or confess to their wartime atrocities within the reconciliatory platform of truth-telling and societal healing they provide (Freeman, 2006, p. 161). Additionally, the presumption that the nature of ex-combatant participation, as perpetrators, in TRCs, takes the form of apologies and regret (Shaw, 2007), fails to recognise the possibility that they may not self-identify as perpetrators nor have a desire to participate in a justice forum that reinforces such a simplistic binary of conflict experiences (victims or perpetrators). The normatively constructed position of ex-combatants as legitimate perpetrator participants (see Chapter 4 for a discussion of their legitimate subject position within the identity framework of truth commissions) within truth commissions fails to recognise that self-identification may prevent ex-combatants from considering themselves appropriate participants (see Chapter 4 for a discussion of their appropriate subject position) within this restricted participation model. Current perceptions of ex-combatant conflict experiences (and expectations around their post-conflict attitudes) are replete with external assumptions that showcase the normative construction of archetypal and mutually exclusive conflict identities (of victim versus perpetrator) within transitional justice²⁶. Mitton (2013) aptly captures the problematic impact of such assumptions in his discussion on the post-conflict political integration of ex-combatants in Sierra Leone. He illustrates that the “assumption that former fighters are more prone to violence, though understandable, is simplistic, not least because for many the reverse is true” (Mitton, 2013, p. 325). He emphasises that “ex-combatants are poorly understood as a mob of angry and violence-prone youth” (Mitton, 2013, p. 333) whose wartime participation is inaccurately premised on assumptions of choice and agency that do not reflect their lived experiences. “Many ex-

²⁶ See McEvoy and McConnachie, 2012.

combatants exercised little choice in originally taking arms, and their transformation into ruthless fighters was the result of systematic brutalisation and conditioning rather than an innate lust for loot and power” (Mitton, 2013, p. 333). In line with Mitton’s work, this study finds that TRC entrepreneurs applied problematic assumptions regarding ex-combatant experiences of the war, and consequently ex-combatant justice needs, without grounded consideration of their actual conflict experiences and post-conflict justice expectations. One TRC official described the role of ex-combatants in the TRC as “to confess and gain forgiveness from their victims and communities through the TRC”²⁷. Another TRC official reiterated the TRC’s binary treatment of ex-combatants as simple perpetrators by stating that “the ex-combatants needed a place to express their guilt, and the TRC gave them this opportunity for atonement”²⁸. In describing the non-punitive advantage that the TRC enjoyed over the SCSL, a member of civil society and TRC broker highlighted that “the TRC offered a unique chance for ex-combatants to repent and show their regret without fear of punishment”²⁹. This reinforces widespread institutional anticipated expectations of ex-combatants as guilty perpetrators without consideration or accommodation of the complexity of actual ex-combatant experiences, and of ex-combatant experiences of suffering. In contrast, the universality of suffering has emerged strongly among interviewed ex-combatants. According to Jeffrey, a former RUF fighter, “we were all victims of the war”³⁰. Anthony, described his forcible recruitment into the RUF in 1995 by recounting, “I was kidnapped and forced to join. They made me leave my woman (wife) and told me I had to fight”³¹. Francis, a long-standing member of the Kamajors, noted that he joined the group after “they (the SLA) came and destroyed my home. My sister was burned badly in the fire, and there was no treatment for her. So then I felt the suffering I had already seen”³².

²⁷ TRC Official interview, remote interview, August 15, 2018.

²⁸ TRC Official interview, Freetown, May 14, 2017.

²⁹ TRC Broker (civil society) interview, Bo, March 15, 2017.

³⁰ RUF ex-combatant interview, Freetown, February 20, 2017

³¹ RUF ex-combatant interview, Makeni, February 28, 2017

³² Kamajor/CDF ex-combatant interview, Bo, January 15, 2018

These experiences of suffering among interviewed ex-combatants highlight the complexity of lived conflict experiences shared among this interviewed population, and the inappropriateness of a simple and universalising perpetrator identity imposed upon them.

Anticipated Expectations

Significant inconsistencies are evidenced in a comparison of institutional-level, anticipated expectations held by TRC entrepreneurs around ex-combatant attitudes, against actual ex-combatant expectations. On the institutional level, ex-combatant participation in Sierra Leone's TRC was widely held to be necessary in the fulfilment of the institution's aims. Qualitative interviews with TRC entrepreneurs reinforce the explicit relevance of ex-combatants as TRC participants, outlined in the mandate and operating documents of the TRC. In an interview, one TRC official emphasised, "to find the truth we needed to hear from the ex-combatants. They needed to come forward so that the victims could forgive them"³³. Another TRC official working as a statement-taker reiterated, "the TRC was for everyone"³⁴. On this institutional level, ex-combatant participation is broadly held as necessary for the successful achievement of all four TRC aims, though variation in the need for their participation, as either intrinsic or instrumental, exists. Predominantly the need for ex-combatant participation is seen as intrinsic, necessary for the fulfilment of each of the TRC's objectives by virtue of the inherent relevance that ex-combatants held within its restorative justice model. One civil society (TRC broker) respondent reported, "the TRC was paralysed without the ex-combatants, what could we know if we didn't hear from them? What could we do without their participation? Nothing"³⁵. Similarly, another TRC official (TRC implementer) defined the core purpose of restoration within the TRC as "about restoring dignity for the victims, and humanity for the ex-combatants"³⁶. Ex-combatants as TRC participants, in this light, are the legitimate subjects of TRC

³³ TRC Official interview, Freetown, May 3, 2017

³⁴ TRC Official interview, Freetown, May 10, 2017

³⁵ TRC Broker interview, Freetown, December 2, 2016.

³⁶ TRC Official interview, Freetown, May 11, 2017.

participation, and part of the broader population of its beneficiaries. Conversely, and less common, are institutional understandings of instrumental ex-combatant participation, whereby ex-combatant participation was only considered necessary in order to address the needs of victims in the TRC. A TRC official in Makeni reported, “the TRC was for the victims, and for the country, to heal. The ex-combatants had a role to play, for sure. They needed to confess so that the victims could get closure. They served a purpose”³⁷ by facilitating victim healing. Within such an understanding, ex-combatant participants are not granted the same agency as above, and constitute objects of TRC goals, rather than autonomous subjects. Despite this variation, the role of ex-combatants as necessary participants is clear.

TRC awareness and sources of information

Despite the TRC having completed its operations well over a decade ago, the legacy of its existence lives on. Moreover, some elements of its work (most notably the body of recommendations produced in the TRC’s Final Report, 2004) continue to resonate within contemporary Sierra Leone. This is particularly evident among members of civil society that continue to refer to the Report’s Recommendations as a crucial “roadmap for development”³⁸ for the country. Regardless of age, warring party affiliation(s) and location, all 112 ex-combatant interviewees had, at the very least, heard of Sierra Leone’s TRC. Their expectations and understandings of the TRC, however, reveal a new dimension of inter-connectivity between concurrent peace processes.

While all ex-combatant respondents reported being aware of the TRC at the time of its operations, very few (seven of 112) were able to trace and confirm their first or primary source of knowledge of the TRC. Most (105 of 112) cited a combination of sources, predominantly local media (the radio) and community members. Ex-combatant respondents were largely unable to distinguish between the TRC and the SCSL as their primary TRC education sources, for two reasons. Firstly, time has had

³⁷ TRC Official interview, Makeni, March 2 2017.

³⁸ 6 TRC Broker Interviews in Freetown between November and December 2016; 5 TRC Broker interviews throughout 2017.

a corrosive impact on memories of this. Secondly, persistent perceptions of the inter-connectedness of the TRC and the SCSL have meant that in practice, the two bodies are not meaningfully distinguished by this population. Saidu, a former member of the CDF/Kamajors in Bo described the TRC and Special Court as “the same. The TRC helped the Court. They worked together to bring to justice those who bore the greatest responsibility of the war”³⁹. When interviewed about which institution was established first in Sierra Leone, Saidu held, “both – they came together. The Special Court needed the TRC to collect the facts for its work”⁴⁰. Outreach activities undertaken by the SCSL were much more robust and organised than those of the TRC, a reflection of the high allocation of resources that the Court enjoyed. It is therefore likely that SCSL outreach activities served as a primary source of information on the TRC for ex-combatants, evidenced in both the clarity with which ex-combatants understood the scope and aims of the SCSL⁴¹, and the conflation of the Court’s mandate with that of the TRC’s mandate. It is clear, however, that discussions around the TRC permeated society widely. Alie voluntarily joined the RUF in 1996 and settled in his hometown of Makeni after the war. He recounted that:

*All of us (in the community) knew the TRC was here, that it had come to make peace for the whole country. I spoke with my neighbours about it; at the ataya base (makeshift cafes popular throughout Sierra Leone); in church the pastor talked about it too..many people talked about it*⁴².

Respondents described their expectations of the TRC with confidence, and gave no indication of deficits in their awareness of this institution. Only three interviewed ex-combatants expressed having heard of the TRC but not knowing, or being unsure of, what its purposes were. Among them is Gibril, 33 years old when I first met him in 2018, and working as a security guard in Bo after his wartime

³⁹ CDF/Kamajor Ex-combatant interview, Bo, June 25, 2018.

⁴⁰ Ibid.

⁴¹ 96 out of 112 interviewed ex-combatants repeated the official mandate of the SCSL as responsible for ‘prosecuting those most responsible’ for the civil war *verbatim*.

⁴² RUF Ex-combatant interview, Makeni, February 28, 2017.

experience as a forcibly recruited child soldier with the RUF in 1997 right before his 12th birthday. Gibril shared that:

*Yes I know about the TRC, the commission for truth that came after the war. They brought it from outside because of the war but I don't know what it was for. Maybe it came to tell us about the war? I already knew about the war, so the TRC was not for me*⁴³.

While Gibril and a small number of other ex-combatant respondents (three in total) describe a poor or unclear understanding of the TRC and its aims, the vast majority of ex-combatant interviewees report a high quantity and quality of education regarding the purposes of the TRC. They stated they felt they “understood”⁴⁴ the process and did not find its aims confusing or unclear. Yet, their understandings of the TRC do not fully align with the institution’s actual mandate, and reveal the impact of concurrent transitional processes on informing expectations towards the TRC. Barry joined the RUF rebels in 1995 after “soldiers destroyed my home and (tailoring) business”⁴⁵ in Freetown, leaving him homeless and unemployed. Barry’s explanation of the TRC’s purposes reflects a shared understanding of the hopes held for the TRC among ex-combatants, which he described as follows: “the TRC came to bring peace and justice. we needed those things because of the war. It was supposed to help us, all of us, to help rebuild what was lost”⁴⁶.

Ex-Combatant Expectations

Ex-combatants were asked why the TRC had been established in Sierra Leone. All respondents reported that the TRC was introduced either as a measure to help end the war, or as a process to help cement the fragile peace (including the three respondents who expressed not understanding the purposes of the TRC). In Makeni, former RUF fighter Amadu described the purpose of the TRC as to “end the war”⁴⁷,

⁴³ RUF Ex-combatant interview, Bo, September 9, 2018.

⁴⁴ 109 out of 112 ex-combatant interviewees, across all factions in Freetown, Bo and Makeni, between 2017 and 2019.

⁴⁵ RUF Ex-combatant interview, Freetown, January 5, 2019.

⁴⁶ Ibid.

⁴⁷ RUF Ex-combatant interview, Makeni, August 22, 2018.

while Emanuel, a former CDF/Kamajor fighter in Bo, looked to the TRC to “make sure that the peace would last...by healing the war wounds for good”⁴⁸. Although ex-combatant understandings of the TRC’s reason for establishment varied (either a function of peace-making or peacebuilding), the TRC’s connection to the transitional peace process was clear among all respondents. Ex-combatant expectations in relation to the TRC can be grouped into three categories: truth-telling and expression; reintegration and development benefits; and justice and accountability. By and large, expectations of the TRC did not exhibit variation across age, factional affiliation, duration of conflict participation, location or DDR process participation, with one exception. DDR participation exerts a degree of influence over TRC purpose rankings. Ex-combatants who did not participate in the DDR process (71 of 112, or 71 of 80 when controlling for the SLA sample) rank justice and accountability more highly, as an associated TRC purpose, than those that did participate in DDR. However, reintegration and development benefits still outranked justice expectations among all interviewees as the primary expectation associated with the TRC.

The TRC’s mandate endowed it with the responsibility to establish an impartial historical record (through truth-telling), address impunity (as an alternative accountability mechanism), foster healing and reconciliation (by providing a platform for victims and perpetrators to come together) and prevent the repetition of conflict (through deterrence) (TRC Act, 2000; TRC Final Report, 2004). While there is some overlap between the TRC’s actual mandate and ex-combatant understandings thereof, substantial deviation has also been uncovered. Additionally, discrepancies between institutional expectations towards ex-combatants and actual ex-combatant expectations is significantly revealed, in particular in relation to the expectations of truth telling and expression, and justice and accountability.

⁴⁸ CDF ex-combatant interview, Bo, June 22, 2018.

Truth-Telling and Expression

Ex-combatants strongly understood the TRC to have prominent truth-telling and expression aims. All 109 interviewed ex-combatants who reported a 'clear' understanding of the TRC express this associated TRC expectation. This matches the TRC's official mandate and is therefore unsurprising, though important differences between institutional and ex-combatant understandings around expression are also uncovered. Truth telling, or the establishment of a comprehensive historical record of the war, is widely held to be a significant element of the TRC's work. The TRC came "for us to know what happened and why"⁴⁹ and to distribute this record throughout Sierra Leone, and beyond. Omar, a former SLA soldier, described truth-telling as essential in the TRC "so that (we and) other countries can learn from the mistakes in our past"⁵⁰. The value of such a historical record is understood as both intrinsic and instrumental, on both national and international levels. The expectation of the TRC to establish this historical record emerges from the perceived relationship between such truth telling and peace. It is widely held that "to have real peace we must know what happened, so that we do not repeat those actions"⁵¹.

The need for truth-telling may appear to challenge earlier findings by Shaw (2007) that point to a wider cultural practice of "directed forgetting" (p. 194) in Sierra Leone. However, this apparent contradiction is reconciled when considering the associated TRC expectation of expression that this research has highlighted. According to Shaw (2007) the culturally embedded art of forgetting in Sierra Leone "did not mean the erasure of personal memories, but their containment in a form that would enable them to recover their lives" (p. 194). Time and again, ex-combatant respondents emphasise the TRC's role as a forum for people to "blow their minds"⁵², a Krio

⁴⁹ CDF ex-combatant interview, Bo, September 28 2017.

⁵⁰ SLA ex-combatant interview, Freetown, February 25, 2017.

⁵¹ RUF ex-combatant interview, Makeni, March 1, 2017.

⁵² Ex-combatant interviews, Freetown, Bo and Makeni, 2017-2019 (71 interviews)

expression that ex-combatants use to relay the cathartic process of sharing individual conflict experiences for the purposes of healing and acknowledgement. This stands in contrast to elite understandings of the very same expression ('blow your mind') and TRC purpose (expression), which connotes a process of sharing and externalisation rooted in binary understandings of conflict experiences, of victims versus perpetrators, wherein ex-combatants who come to "blow their minds"⁵³ convey their actions in the rubric of confession and apologies. Ex-combatant expression is seen on the institutional level as necessary for this group of perpetrators to "release the evil bottled within"⁵⁴ through confession. According to one TRC official the TRC was an opportunity for ex-combatants "to gain forgiveness"⁵⁵. Another member of civil society, part of the TRC Working Group, echoed this anticipated institutional expectation, describing the TRC as a place for ex-combatants to "apologise and admit their wrongdoings"⁵⁶. Conversely the ex-combatant use of this Krio expression is one of contextualised narratives and the significance thereof. Sharing or expressing their conflict experiences in the TRC should have offered an opportunity for others (e.g., communities, the government) to understand the complexity of their (ex-combatant) experiences through their own recounting, as well as the factors that led to their war-time actions, its wider context, and the struggles they faced in the new post-conflict setting. Peter, who joined the RUF rebels in 1997 said:

I joined the RUF to get justice for my family and my country. When the TRC came they said this was our chance to tell our story, but they didn't want to know why I fought, they only wanted to know what I did⁵⁷.

The TRC is seen by interviewed ex-combatants as an institution that should have offered a channel for individuals to take control of their conflict experience narratives, and to express the context of those

⁵³ TRC entrepreneur interviews, Freetown, 2016-2019.

⁵⁴ TRC broker (civil society) interview, Freetown, March 8, 2017.

⁵⁵ TRC Official Interview, Freetown, May 3, 2017.

⁵⁶ TRC Broker (civil society) interview, Freetown, November 19, 2016

⁵⁷ RUF ex-combatant interview, Makeni, February 1, 2018.

experiences, thereby moving away from the binary labels of perpetrator or victim. The aim of truth-telling can be summarised as explanatory, with a strong deterrent function, while expression existed in order to generate understanding, and through this, catharsis and healing. This reinforces Nwogu's (2010) critique identifying the disproportionate focus in truth commissions on uncovering the facts of previous periods of violence or repression, without adequate consideration of its motivations. In so doing, the "collective memory project" (Nwogu, 2010, p. 276) of truth commissions places a normative narrative constraint on their participants that not only privileges certain actors (victims) but also actions, over motivations. Such a constrained framework for expression "undermines the repair of social relations in the long term" by failing to "investigate the foundations of violence" (Nwogu, 2010, p. 276).

While the aim of truth-telling mirrors the objective mandate of the TRC, ex-combatant expectations of expression deviate from anticipated expectations held for them on the institutional level by transitional justice entrepreneurs. This deviation is reflected more broadly in transitional justice scholarship that reinforces the 'simple perpetrator' role of ex-combatants in TRC. For instance, in his critical examination of the TRC Kelsall (2005) recounts how TRC Commissioners called upon ex-combatants to come forward to confess and repent for their actions in the Commission's public hearings. Shaw (2007) further points to the TRC's imposed model of redemptive memory that failed to give meaningful voice to those who participated. Mitton (2013) similarly expands the remit of the inappropriate application of simple external assumptions around ex-combatants in Sierra Leone; he unpacks problematic external assumptions around this population's inclination towards violence. Importantly, this illustrates that on the institutional level ex-combatants were looked at as perpetrators, which informed anticipated expectations around this population and the construction of their legitimate subject position as TRC participants. However, on the micro-level, actual ex-combatant expectations of expression through contextualised narratives reveal that this population did (and does) not consider themselves perpetrators, and

therefore did not self-identify as appropriate perpetrator subjects before the TRC. The binary of victim or perpetrator, imposed on the institutional level, failed to accommodate the complexity of ex-combatants' lived conflict experiences, and resultantly, a significant difference between institutional and ex-combatant understandings of expression, as a pathway to healing and reconciliation, through understanding, is evident.

Ex-combatant expectations of truth-telling and expression within the TRC overlaps partially with the Commission's actual objectives. This expectation reflects an understanding of the TRC as a forum for justice, established to achieve deterrence through historical record-setting and community restoration through contextualised narrative expression. The remaining ex-combatant expectations, of reintegration and development, and justice and accountability, were strongly determined by the concurrently operating DDR process and the SCSL.

Reintegration and Development

Ex-combatants strongly expected the TRC to provide reintegration and development opportunities⁵⁸. Specifically, the TRC was understood as designed to provide education, vocational training, jobs, housing and healthcare. According to Peter, a former RUF member, "the TRC came to help us rebuild our communities"⁵⁹. According to Francis, a former member of the Kamajors/CDF, the TRC was established "to give me my reintegration benefits"⁶⁰. Thomas, who was injured in a battle during his time with the RUF, looked to the TRC "to help me find medical treatment"⁶¹ and Richard, a former CDF member, describes the role of the TRC as "to bring jobs so we could have better opportunities after the war"⁶². This reinforces work by Shaw (2007) who found that TRC participants engaged with the TRC with the expectation that this would "bring them material benefit" (p. 197).

⁵⁸ This expectation was expressed by 106 ex-combatant interviewees (out of 109 that reported a 'clear' or 'good' understanding of the TRC's purposes, conducted between 2017 and 2019).

⁵⁹ RUF ex-combatant interview, Makeni, February 1, 2018.

⁶⁰ Kamajors/CDF ex-combatant interview, Bo, January 15, 2018.

⁶¹ RUF ex-combatant interview, Freetown, February 18, 2017.

⁶² CDF ex-combatant interview, Bo, March 12, 2017.

Understanding the impact of Sierra Leone's DDR process on ex-combatant understandings and expectations of the TRC requires elucidating the links between these fields more broadly as well as their impacts on one another.

Linking DDR and Transitional Justice

According to Sriram and Herman (2009), while DDR programmes and transitional justice measures are often implemented simultaneously, neither “has traditionally been designed with the other in mind” (p. 455). Yet this coexistence “has implications for the success of both” (Patel, 2010, p. 2) as these processes do not operate in isolation, necessarily interacting with each other and other transition processes (Kilroy, 2014; Sriram, 2013). While a burgeoning literature on the nexus between DDR and transitional justice has begun to crystallise, this research is heavily biased towards DDR, emphasising predominantly the ways in which transitional justice does, can, and could impact DDR processes (Sriram and Herman, 2009). The impact of DDR on transitional justice has not been explored to the same extent. Indeed, Sriram and Herman (2009) highlight the asymmetric accommodation of transitional justice to the presence of DDR processes, while DDR processes themselves have, by comparison, only recently “begun to take account of the demands and practice of transitional justice” (p. 455). Empirical evidence of the micro-level impacts these processes have on one another remains limited, and skewed towards DDR. This study takes empirical steps to fill this lacuna by unearthing ex-combatant understandings of the TRC, the origins thereof, and the significance of DDR on these understandings.

DDR

DDR refers to the three-part process of disarmament, demobilisation and reintegration that has become an integral part of post-conflict transitions. The primary aim of DDR programmes is to deter the return to violence among (ex)-combatants (Humphreys and Weinstein, 2007; Nilsson, 2005) by ensuring their transition to civilian life (Muggah, 2005). DDR as an instrument of post-conflict reconstruction took root in the early post-cold war period through UN peacekeeping missions,

and by 1998 it was decreed to be one of the priorities of post-conflict transitions (Muggah, 2005). DDR has since become a fundamental component of peace processes (Berdal and Ucko, 2013), generally “introduced early on in the post-conflict period and geared towards building confidence between parties and neutralising potential spoilers” (Muggah, 2005, p. 243). At a minimum disarmament involves the collection and disposal of weapons from combatants (and often civilians) in a conflict zone (Knight, 2008). Demobilisation entails the process by which armed groups are “induced to disband their military organisation and structure and shift from combatant to civilian status” (Knight, 2008, p. 28). Reintegration is the final and most problematic component of DDR (Kilroy, 2011). It comprises assistance measures for ex-combatants to increase their potential for “economic and social reintegration into civil society” (Jennings, 2007, p. 205). It is a “longer-term social and economic process” (Knight, 2008, p. 29) that often involves vocational training, sustainable income-generation projects, repatriation of refugees and displaced persons, and the establishment a process for truth and reconciliation. Reintegration therefore, as the final element of post-war DDR, refers to measures designed and implemented to facilitate the lasting and sustainable (re)entry into civilian life by former combatants.

As a three-part process, DDR has historically focused greater attention on its disarmament and demobilisation components, while reintegration receives far less attention⁶³. According to Garcia-Godos and Sriram (2013) “while numerous DDR processes have been reasonably successful in disarmament and demobilisation of former combatants, reintegration...is far more challenging” (p. 9). It is commonly accepted to contain economic, political and social dimensions (Nilsson, 2005).

Economic reintegration entails the ability of ex-combatants to “earn a livelihood through legitimate means” (International Peace Academy, 2002, p. 2). The elements of political and social reintegration are less

⁶³ Humphreys and Weinstein, 2007; Jennings, 2007; Knight, 2008; Muggah, 2005.

easily quantified in comparison to economic reintegration. Political reintegration refers to ex-combatant participation in legitimate democratic governance structures and reflects the “confidence ex-combatants express in the democratic system” (Humphreys and Weinstein, 2007, p. 541). Finally, social reintegration denotes the acceptance of ex-combatants by their (new or home) settlement communities. Acceptance underpins the necessary and intended outcome that social reintegration seeks to achieve. This too, lies at the heart of the reconciliatory aims of transitional justice. It is therefore within social reintegration that transitional justice intersects most directly with the overall reintegration component of DDR. A space for complementarity between DDR and transitional justice along this intersection therefore exists. Social reintegration requires the participation of the communities being asked to accept (returning) ex-combatants (Garcia-Godos and Sriram, 2013; Kilroy, 2014). This is a long-term and challenging endeavor, as these communities may have been directly affected by abuses committed by ex-combatants, and one in which transitional justice efforts may offer meaningful mitigating assistance (Garcia-Godos and Sriram, 2013; Kilroy, 2014). According to Waldorf (2009) it is precisely within reintegration in DDR where the “more promising arena for cooperation with transitional justice” exists (p. 18). The long-term objectives of both processes to “rebuild(ing) social trust and social capital” (Waldorf, 2009, p. 23) require engagement beyond merely ex-combatants in the case of DDR (which needs wider community buy-in for social cohesion and reintegration to be achieved (Waldorf, 2009)), and victims in the case of transitional justice (where reconciliation involves the necessary participation of ‘non-victims’). The short-term tensions between DDR and transitional justice, captured in the peace versus justice debate (discussed in Chapter 3), might thereby be mitigated by their potential long-term complementarities, through greater “institutional linkages and coordination” (Waldorf, 2009, p. 23).

In addition to complementarity between these processes, there also exists the possibility for competition. While both DDR and transitional justice measures share the goals of contributing to the transition from

war to peace, they seek to achieve this in different ways (Sriram and Herman, 2009). DDR, with its historic emphasis on disarmament and demobilisation, forms part of the peace-making toolkit. DDR, broadly speaking, therefore prioritises the immediate peace-making goal of getting fighters to lay down their guns, through the promise of reintegration benefits that are meant, at least in theory, to provide a better long-term alternative to the gains of war. Transitional justice measures, conversely have a longer-term peacebuilding focus through their emphasis on accountability. The understanding of DDR as sitting within the framework of peace-making, and transitional justice as part of peacebuilding, was particularly evident in Sierra Leone where the TRC was incorporated into the Lomé Peace Agreement to “ensure (the long-term process of) peacebuilding”⁶⁴.

DDR and transitional justice are often pitted against each other as occupying opposing sides of the peace (DDR) versus justice (transitional justice) debate. Competition between DDR and transitional justice holds that fears of (transitional) justice will prevent ex-combatant participation in peace (i.e. DDR). This position assumes ex-combatant understandings of their own conflict experiences as premised on guilt and culpability, reinforcing the simple victim versus perpetrator conflict narrative structure put forward by the conventional transitional justice discourse (see Chapter 4). Waldorf (2009) argues that claims of competition between DDR and transitional justice are over-inflated, and argues that in reality these processes “do not clash as often or as much as commonly supposed” (p. 17). Claims of competition also discounts the impact that DDR (and other) processes have on informing ex-combatant expectations towards transitional justice, highlighting again the privilege that DDR enjoys in evaluations of the interplay between these fields. Through empirically uncovering ex-combatant expectations of the TRC, this chapter challenges the

⁶⁴ Interview with the lead negotiator for the Government of Sierra Leone in the Lomé Peace Agreement. December 18, 2018. The respondent shared that while the Lomé Agreement focused primarily on the immediate and urgent need for peace-making, prioritising measures such as DDR, the incorporation of the TRC was particularly significant, and regarded to be the lynchpin of peacebuilding for the country.

foundations of this presumed polarisation of DDR and transitional justice. Not only do ex-combatants reject the simple perpetrator category within which transitional justice places them, but DDR influenced expectations around the TRC, revealing a bi-directionality of impacts across these processes, beyond the traditional view that favours DDR.

Finally, DDR and transitional justice also intersect along the axis of their necessary participants. The centrality of ex-combatants to the effectiveness of DDR is uncontested, indeed these processes are set up to address exactly that segment of society – the combatants, and the measures needed to ensure their successful transition to civilian life. However, the role and significance of ex-combatants in TRCs remains largely unrecognised. The prevailing position that transitional justice mechanisms are ‘victim oriented’ (Freeman, 2006) has been put forward as a possible reason for competition between DDR and transitional justice – their “rather different” intended beneficiaries (Sriram and Herman, 2009, p. 462). Yet, as previously established, in Chapters 4 and 6, ex-combatants are important and meaningful participants within TRCs. The realisation of all TRC aims requires substantive ex-combatant participation. The presentation of transitional justice and DDR beneficiaries as incompatible and mutually exclusive (Waldorf, 2009) therefore reflects and reinforces a false dichotomy of participation.

DDR in Sierra Leone

As described in Chapter 3, DDR in Sierra Leone proceeded in three phases, and faced “innumerable hiccups in its implementation” (Humphreys and Weinstein, 2007, p. 539) as a result of outbreaks of violence and a return to war which disrupted phases one and two. Ultimately, approximately 76,000 combatants were disarmed (Sesay and Suma, 2009). This far exceeded the anticipated 45,000 for which the process was originally designed. According to traditional measurements of disarmament and demobilisation DDR was a success. The process however “had very little impact on” (Sesay and Suma, 2009, p. 15) ex-combatant reintegration. Indeed, reintegration

is widely understood to have been the most problematic, and least successful, element of DDR efforts in Sierra Leone (Knight, 2008). This has been attributed to a combination of funding shortfalls and the difficulties of prioritising a long-term outcome with visibility problems (Knight, 2008). The reintegration assistance that was provided is heavily criticised as lacking in requisite robustness, and unresponsive to the particular needs of vulnerable groups (Knight, 2008; Sesay and Suma, 2009). Problems with “delays in payment of stipends, or non-payment”, “missing start-up toolkits” and the poor “duration and quality of” training are reported to be among the biggest failings of this programme among ex-combatants themselves (Kilroy, 2011, p. 135). Interviewees referred to the term “DDR drivers”⁶⁵ which emerged in the post-war context to refer to motorcycle taxi (commonly known as ‘okada’) drivers with poor driving skills, to highlight the inadequate level of training that many disarmed combatants received. According to Knight (2008), “the inability of the DDR process in Sierra Leone to give ex-combatants the capacity to continue with the process is testament to the weakness of this portion (reintegration) of the DDR programme” (p. 42).

DDR and the TRC in Sierra Leone

No formal links existed between the DDR and TRC frameworks (or between DDR and the SCSL). However, despite the absence of a formal relationship, officials from the TRC and the National Committee for DDR (NCDDR) understood the processes as linked by virtue of the contributions that each sought to make to the country’s broader transition from war to peace (Sesay and Suma, 2009). DDR was nearing the end of its final phase when the TRC began its operations, and one senior-level meeting between TRC officials and the NCDDR was held to discuss possible inter-relationships and exchange information (Sesay and Suma, 2009). However, no operational linkages were established, and the two processes continued to operate largely independently of one another (Waldorf, 2009). Even

⁶⁵ Ex-combatant, civil society (TRC brokers) and TRC officials interviews. 2016-2019.

submissions from the NCDDR to the TRC (a total of three, in 2003) have been described as “fairly superficial” (Waldorf, 2009, p. 121) and a missed opportunity for information sharing. In discussing the absence of a relationship between DDR and the TRC in Sierra Leone, one TRC official shared that:

At the time we (the TRC) did not see the relevance of a deeper cooperation with DDR – it (DDR) was nearing its end anyway. The TRC was about truth, justice and reconciliation for the victims, it was to build a lasting peace for Sierra Leone on the foundation that Lomé and DDR provided by appeasing the ex-combatants and reintegrating them. We saw DDR for the ex-combatants and the TRC as mostly for the victims. Of course now we look back and see how we (the TRC) could have benefitted from working together (with DDR), because we needed the ex-combatants at the TRC too – the TRC should have been a more inclusive space for them. In DDR the ex-combatants were like heroes, but in the TRC they were the villains. It's no wonder they did not participate much in the TRC, the whole peace process was confusing and inconsistent for them⁶⁶.

Despite the timing of the TRC (as beginning when DDR was ending) and the lack of official links between the two, the DDR process was still affected by the establishment of the TRC (and the introduction of a transitional justice framework more broadly) (Sesay and Suma, 2009). This occurred primarily through the simultaneous establishment of the SCSL, which, as the punitive avenue of transitional justice, created the widespread local perception that the TRC formed the investigative arm of the Court. Siaka's characterisation of the TRC reflects the broader consensus among interviewed ex-combatants on perceived links between the TRC and Special Court, which is further expanded in sections below. According to Siaka, a former sergeant in the SLA, “the TRC was part of the Special Court. It conducted investigations for the Special Court to publicly bring justice to the perpetrators of the war”⁶⁷. Concerns among DDR officials that these misperceptions would prevent combatant participation in DDR, out of fear of prosecution before the SCSL, showcase conventional assumptions underlying the peace versus justice debate. Additionally, the fact that DDR,

⁶⁶ TRC Official interview, Freetown, May 14, 2017.

⁶⁷ SLA interview, Freetown, October 19, 2018.

reportedly, was affected by the TRC only insofar as the TRC was widely seen to be connected to the SCSL, is significant. Pervasive misunderstandings around the relationship between the SCSL and the TRC are once again highlighted. NCDDR officials worried that misperceived links between the TRC and SCSL would prevent ex-combatant participation in DDR, highlighting the wide reach of these misperceptions, extending beyond the range of transitional justice, and affecting transitional processes more broadly. This evidences that the TRC itself was not considered to be very meaningful in relation to DDR directly, and may have contributed to the absence of operational links between the two processes. This showcases the primacy placed on the relevance and significance of trials over truth-seeking (Nesbitt, 2007).

Ex-combatant expectations of tangible peace dividends in the form of reintegration and development opportunities emerged from understandings of the TRC as providing the same benefits as DDR, or of the TRC as filling in the gaps of the DDR process where it had failed to deliver fully (the reintegration component). Similar to research undertaken by Kilroy (2011; 2014), several ex-combatant interviewees who participated in DDR referred to (or in some cases even showed) their DDR Reintegration ID cards, as proof of promises left unfulfilled⁶⁸ (Kilroy, 2011). Kevin held out his ID card during our first interview and said “look at my ID card, look where they should have given me my benefits and did not. DDR did not fill its promises, and the TRC did not either. I am still waiting, to this day”⁶⁹. Individual experiences with the DDR programme also had wider impacts on ex-combatant perceptions of the TRC. Ex-combatants expressed an active rejection of the TRC based on their negative DDR experiences. Simon shared, “DDR failed, so why should I have trusted the TRC?”⁷⁰ Similarly, Timothy recounted, “when the TRC came, I did not talk to them. I did not attend anything, and I warned others not to be fooled” because “DDR was a lie. It did

⁶⁸ 25 out of 41 interviewed ex-combatants who participated in DDR in Sierra Leone showed their DDR cards during interviews.

⁶⁹ RUF ex-combatant interview, Freetown, February 20. 2017.

⁷⁰ CDF ex-combatant interview, Bo, March 12 2017.

not give what it owed us, and what it promised. The TRC was the same, the same people promising the same lies”⁷¹. The failure to provide reintegration benefits in the DDR programme, was “clearly seen as a broken promise” by participating ex-combatants, and this “breach of trust” had wider implications for ex-combatant receptiveness towards peacebuilding processes more generally (Kilroy, 2011, p. 135). Interestingly, while those with positive DDR experiences generally express a positive understanding of the TRC’s aims, the bi-directionality of this correlation is limited when considering participation outcomes. Negative experiences of DDR strongly influenced ex-combatant decisions not to participate in the TRC, while positive experiences of DDR did not have the same influence on TRC participation. Sallieu participated in DDR after being a forcibly recruited member of the RUF at age 17. Sallieu was a member of the RUF for four years, and had his left arm amputated by a commanding officer after a failed escape attempt in 1996. He is “glad for DDR, it allowed me to escape from fighting and gave me a future”⁷² outside of the war. Sallieu now runs a small tailoring business in Freetown, and employs two other war-wounded ex-combatants whom he has trained. “You see, even with only one arm, we can make fine cloths”⁷³ Sallieu shared proudly. Yet, despite his positive experience with DDR, Sallieu did not participate in the TRC. According to him:

*For me DDR was a great success, I know it failed many people, but I got my training, and my compensation (reintegration package), and now I have my business. When the TRC came no one asked me for my statement. When the hearings came I went to go watch and I knew the TRC was not for me...I was not a combatant anymore. The war for me was done, and I only want to move on peacefully, so the TRC was not for me*⁷⁴.

Waldorf (2009) attributes ex-combatant conflation of DDR and transitional justice more broadly as “the same thing” to their often concurrent operation, the fact that they are often managed and implemented by the same actors (governments), and work with the

⁷¹ RUF ex-combatant interview, Bo, October 2, 2017.

⁷² RUF Ex-combatant interview, Freetown, July 3, 2018.

⁷³ Ibid.

⁷⁴ Ibid.

same civil society organisations (p. 16). However, this explanation of conflation stops short of recognising the role that ex-combatants play as beneficiaries of both DDR and TRCs in particular. Using the case of Sierra Leone, Waldorf's (2009) explanation on the impact of DDR on informing ex-combatant TRC expectations can be expanded to include the space that ex-combatants occupy as necessary to both. DDR, having been introduced before the TRC, formed the basis of ex-combatant understandings of peace interventions and what to expect from them.

The conflation of DDR purposes with TRC aims among ex-combatants, and the expectation of the provision of tangible peace dividends, evidences several other problems. Firstly, it reinforces the poor level and quality of outreach undertaken by the TRC. Secondly, it draws attention to the lack of coordination between the TRC and DDR processes, in exactly the component where it may have benefitted the most from strategic cooperation (Sesay and Suma, 2009). While work by Sesay and Suma (2009) highlights the NCDDR's keen desire to dispel myths surrounding the relationship between the TRC and the SCSL (2009), this thesis evidences unsuccessful TRC outreach during this process, as these two institutions were, and still are, widely seen to be linked. Lastly, the ubiquitous expectation of tangible peace dividends reveals ex-combatants' immediate post-conflict needs and priorities, and showcases variation in local understandings of justice (Macdonald, 2013).

Justice and Accountability

The final associated ex-combatant expectation with the TRC is that of providing justice and accountability. Among interviewed ex-combatants, the expectation that the TRC would provide reintegration and development opportunities does not stand in contrast with the understanding of this process as one of justice and accountability. In fact, these expectations not only co-exist but inform one another. When asked why ex-combatants expected the TRC to provide reintegration and development opportunities and benefits, they emphasise that it was exactly the lack thereof and corruption therein

that led to the war in the first place. Nigel, a former RUF fighter, and current RUFP chairperson and school headmaster, highlights that:

*poverty, corruption and inequality were the greatest injustices we suffered. We all have our own reasons for fighting, some of us had no choice, but all of our stories come from these injustices. For justice we need development. We still suffer today, the injustices from before the war are still strong today*⁷⁵.

Therefore, redress necessarily meant providing such opportunities. Justice is clearly understood to have a strong socioeconomic focus by this population. When asked what justice meant to him, Josef, a former CDF fighter, said “to me justice is feeling safe – knowing that my family can eat, that my grandson can go to school”⁷⁶. Ex-combatant justice understandings in the immediate post-conflict setting were “needs-driven”⁷⁷, evidencing the failure of micro-level conceptualisations of justice to conform to a universal standard. The TRC’s Final Report (2004) itself recognises the socio-economic nature of post-conflict needs among the local in Sierra Leone, and highlights the salience of “socio economic rights issues” as “primary” concerns among victims (p. 235).

SCSL

Ex-combatant expectations of justice and accountability from the TRC indicate the influence of the simultaneous operation of the SCSL. As stated in Chapter 3, Sierra Leone’s TRC operated alongside the SCSL, resulting in a composite transitional justice landscape. Both mechanisms were established in 2002, though calls for the TRC predate the SCSL. As concurrently operating mechanisms of transitional justice, with overlapping mandates (Bisset, 2012), but distinct orientations (restorative on the part of the TRC, and retributive on the part of the SCSL), it is necessary to consider the impact of the SCSL on local expectations towards the TRC.

⁷⁵ RUF ex-combatant interview, Freetown, May, 2018.

⁷⁶ CDF ex-combatant interview, Bo, March 13, 2017.

⁷⁷ TRC official interview, Freetown (remote), August 15, 2018.

Calls for the establishment of a TRC in Sierra Leone date back to the Lomé Peace Agreement of 1999. Interviews with TRC entrepreneurs (civil society and TRC officials) reveal that calls for the TRC were seen as both “necessary”⁷⁸ and a “compromise of justice”⁷⁹ within an environment that would not allow for more punitive transitional justice options. The tenuous state of peace, exemplified by the war’s resumption and continuation until 2001, made discussions around retributive justice “impossible at the negotiations table”⁸⁰. Ultimately however, the TRC shared the transitional justice stage with the SCSL. The SCSL came into existence after the government of Sierra Leone “sought the assistance of the UN in setting up the world’s first hybrid tribunal” in 2000 (Nesbitt, 2007, p. 977), when renewed fighting caused the government to “reassess its position regarding the Lomé amnesty” (Bisset, 2012, p. 90). The Court was mandated to bring to justice those bearing the greatest responsibility for Sierra Leone’s civil war. From the outset, challenges of the concurrent operation of two very different mechanisms of transitional justice were evident, and persistent. Extant research on Sierra Leone’s combined approach to transitional justice identifies several problems that emerged as a result, and points to the detrimental impact that the SCSL had on the TRC’s ability to function effectively⁸¹.

The failure to establish a working relationship between the TRC and the SCSL, and coordinate their operations, is cited by Bisset (2012) as the most problematic aspect of Sierra Leone’s model of transitional justice. This created tensions between the two in which ultimately trials were privileged over truth-seeking, setting a precedent in international criminal law permitting the restriction of truth-seeking operations in favour of prosecutorial proceedings. According to Bisset (2012), the understanding of trials as superior to truth-seeking is “not based on

⁷⁸ TRC entrepreneur Interviews, Freetown, 2016-2017.

⁷⁹ Ibid.

⁸⁰ Interview with Chief Government negotiator during the Lomé Peace Agreement, December 18, 2018.

⁸¹ See for instance Bisset, 2012.

empirical evidence but reflects the prevailing rhetoric on the superiority of trials in traditional transitional justice discourse” (p. 97).

Moreover, despite their independence, rumours of collaboration and collusion between the TRC and SCSL became quickly embedded, and persist today. Lahai, a former RUF and AFRC fighter says “The TRC and the Special Court worked together”⁸². According to Osman, who joined the CDF forces in 1996, “the TRC helped the Court”⁸³. Ibrahim, forcibly recruited into the RUF similarly emphasised that “they were not separate, the TRC gave information to the Special Court”⁸⁴. Public confusion around the distinction between the TRC and the SCSL led to the common understanding of the TRC as the “investigative arm”⁸⁵ of the SCSL. This has been identified in previous research (see Bisset, 2012; Nesbitt, 2007; TRC Final Report, 2004) as generating fears among ex-combatants towards the TRC, which inhibited their participation. Such work holds that ex-combatants did not participate in the TRC for fear of being subsequently indicted by the SCSL, or out of fear that their participation would lead to the indictment of their former commanders. This is held to be a primary explanation for the low percentage of ex-combatant (or perpetrator) testimony received by the TRC. Furthermore, low ex-combatant participation within the TRC, attributed to fear of cooperation between the Court and the TRC is claimed to have impeded the TRC’s ability to fulfil its reconciliatory and historical record-setting mandate, and eroded local ownership of the process (Bisset, 2012; Nesbitt, 2007).

These challenges indicate that local understandings of the TRC in Sierra Leone were both strongly and negatively influenced by the emergence of the SCSL. This study corroborates that the establishment of the SCSL had a formative impact on local expectations towards the TRC, and adds micro-level depth to this observation with its focus on the TRC’s non-participant ex-combatant community specifically, a population highlighted to have been

⁸² RUF/AFRC Ex-combatant Interview, Freetown, February 21, 2017.

⁸³ CDF Ex-combatant interview, Bo, March 14, 2017.

⁸⁴ RUF Ex-combatant interview, Makeni, March 1, 2017.

⁸⁵ 18 ex-combatant interviews, 2018, in Freetown and Bo.

particularly affected by the co-existence of restorative and retributive mechanisms of transitional justice. However, this thesis reveals this impact to be deeper and more complex than originally understood, and calls into question the claim that ex-combatant participation in the TRC was limited by fears associated with the SCSL's concurrent operation.

As stated earlier, the TRC is widely understood to be a process of justice and accountability, though expectations of how this was to be achieved reveal an entrenched misunderstanding of this institution. While conceptualisations of justice were strongly informed by socioeconomic grievances, they remain rooted in punitive associations between crime and punishment. Universally, despite efforts at education through outreach, interviewed ex-combatants understood there to be a relationship between the SCSL and the TRC. However, this does not mean that such outreach was wholly unsuccessful. Outreach efforts by the SCSL to communicate its limited jurisdiction to "those who (bore) the greatest responsibility" (SCSL Statute, 2000, Art. 1, p.1) in the war were widely effective, and respondents parrot this understanding of the SCSL's limited prosecutorial powers widely. Sensitisation did, however, fail to dispel myths of the relationship between the SCSL and the TRC, or adequately educate people on the restorative foundations of the TRC. Indicative of this is the widespread "tunnel myth"⁸⁶ whereby the close geographic proximity of the SCSL and TRC in the country's capital gave rise to the rumour that the two were linked by an underground tunnel through which TRC officials ferried information to the SCSL. This rumour spread and was never successfully dispelled, despite the SCSL's efforts.

On the institutional level, TRC entrepreneurs assumed the TRC would be perceived as a punitive and retributive mechanism of transitional justice by ex-combatants, who would then decline to participate. assumptions that ex-combatant fears of prosecution as a result of TRC participation, would deter their participation in the TRC, widely informed anticipated expectations around justice and accountability.

⁸⁶ Ex-combatant, civil society and TRC Officials interviews, Bo, Freetown, and Makeni. 2016-2019.

This mirrors more broadly the concern in post-conflict research that punitive justice measures may hinder participation in, and thereby the effectiveness of, concurrent transitional processes, including DDR, captured in the peace versus justice debate (Patel and Waldorf, 2009; Sriram, 2013). However, the micro-level examination of actual ex-combatant justice expectations within the TRC paint an altogether different picture.

Ex-combatants did widely understand the TRC and SCSL to be linked justice institutions. However, this was not considered a negative attribute of the TRC, or one to be feared, by the majority of interviewed ex-combatants. In fact, the sentiment that the TRC, as the investigative arm of the SCSL, contributed to the pursuit of retributive justice in Sierra Leone, is generally positively held. The TRC was widely understood as functioning to bring those responsible for egregious crimes to the SCSL, and thereby contributed to justice. Robbie, a former SLA soldier, noted, “It was good that the TRC worked for the Court, they helped bring offenders to justice”⁸⁷, while Eddie, a member of the RUF and AFRC felt that “the TRC helped the Court by giving it information, so we could have justice”⁸⁸. This demonstrates a strong micro-level conceptualisation of justice as rooted in a retributive (punitive) model. Two factors account for the positive attitudes held towards the (mis)understanding of the two transitional justice mechanisms as linked. Firstly, as mentioned earlier, the SCSL was very effective in communicating the limited scope of its jurisdiction in its sensitisation work. Ex-combatants were widely aware of the limits of the SCSL’s reach and generally knew themselves to fall outside its jurisdiction, meaning they need not fear direct prosecution. Secondly, as previously noted, sampled ex-combatants, did (and do) not self-identify as perpetrators, and therefore did not consider themselves to be the appropriate subjects of culpability before the SCSL. Henry, a former RUF fighter, gave the following explanation for his understanding of the TRC and the Court: “Why would I be afraid of the

⁸⁷SLA Ex-combatant interview, Makeni, March 1, 2017.

⁸⁸ RUF Ex-combatant interview, Freetown, February 21, 2017.

TRC or the Court? I didn't do anything wrong – they came to punish the perpetrators, and I fought for my country. I followed orders, I am not guilty"⁸⁹. Henry's self-perception of his own conflict experiences in relation to the work of the TRC and Court are widely echoed by ex-combatant interviewees across warring factions.

On providing justice and accountability, anticipated and actual ex-combatant expectations both evidence perceived linkages between the TRC and SCSL, and the expectation that the TRC was therefore punitive in character. However, on the institutional level, the assumption that this perceived link would generate fears among ex-combatants, and negatively affect their attitudes towards the TRC, is revealed to be false. Actual ex-combatant expectations of justice and accountability by the TRC were broadly positive, and reflect an understanding of the TRC as contributing to the punitive ambitions of the SCSL. These positive associations are rooted in ex-combatant understandings of the limited reach of the SCSL and their understandings of their own culpability (or rather, lack thereof), placing them outside the scope of potential prosecution. This further highlights the inadequacy of the simple binaries of the victim or perpetrator labels in transitional justice that do not appropriately reflect the complexity of lived conflict experiences.

Conclusion

This chapter has unearthed ex-combatant expectations towards the TRC in Sierra Leone, and analysed the impact of the concurrent SCSL and DDR processes on these expectations. It has revealed the ways in which such processes not only can, but do, intersect and affect one another. This chapter reveals the very real and significant impact that DDR and the SCSL in Sierra Leone had on ex-combatant expectations towards the TRC. It highlights the role that ex-combatants play, as necessary participants, in both TRCs and DDR, and the space wherein coordination intersects most meaningfully – that of (social) reintegration. In examining the origins and substance of ex-combatant

⁸⁹ RUF Ex-combatant interview, Bo, January 16, 2018.

expectations, a multi-level comparison incorporating institutional-level anticipated expectations, adds both breadth and depth to findings. This multi-level comparison highlights the pervasive application of problematic and over-simplistic binary conflict identity labels onto the ex-combatant population (that of simple perpetrators), by TRC entrepreneurs, without grounded consideration of the complexity of their lived conflict experiences. These binary, top-down assumptions of ex-combatants as 'guilty perpetrators' are found to be as dogmatic as they are inappropriate. The aims of the TRC, as understood by ex-combatants, were threefold: truth-telling and expression; reintegration and development; and justice and accountability. In the area of truth-telling and expression, ex-combatants highlight the significance of the TRC as a peace process established to create a full and impartial historical record. However, expression was understood as a platform for contextualised narratives, while anticipated expectations diverged significantly from this and reinforce the binary identity model of TRC participation echoed in the discourse and practice more widely (see Chapter 4). A strong expectation for the provision of reintegration and development benefits by ex-combatants is also evidenced, with roots in the incomplete DDR process, notably its reintegration component. Lastly, ex-combatant expectations of justice and accountability are linked to unyielding myths of the inter-relationship between the TRC and the SCSL. Here again, divergence between anticipated and actual expectations is evident. These expectations cut across the potential fracture lines of faction, age, location, duration of conflict participation and DDR participation, further revealing their salience. This chapter, together with the preceding one (Chapter 6) have analytically and empirically addressed the dimension of ex-combatant expectations towards the TRC. The next two chapters of Part 3 of this thesis, Chapters 8 and 9, proceed to illuminate ex-combatant experiences of the TRC. Chapters 8 and 9 apply the framework of institutional engagement developed in Chapter 5 (in Part Two) of this thesis, with Chapter 8 focusing on the dimensions of ownership and inclusion, and Chapter 9 presenting a dedicated discussion on participation, and non-participation specifically.

EXPERIENCES

Chapter 8

Institutional Engagement, Ex-Combatants and the TRC

The vision we had for the TRC was a great one. It was to be a space for sharing, forgiveness, coming together as a country to shed the evils of the past by acknowledging them...but it did not match the vision we had for it. Many of the hopes we had for it did not come to pass, despite how much we called for them⁹⁰.

Introduction

Chapter 5 has constructed a framework of institutional engagement, identifying the dimensions of ownership, inclusion and participation that together comprise the constellation of relationships between actors and institutions. Through the application of this framework onto the relationship between ex-combatants and the TRC in Sierra Leone, this chapter analyses the normative (ritual) and structural (rhetoric) relationship between this population, and other elements of the local, and the TRC. It sheds empirical light on the institutional practices of exclusion that restricted and discouraged ex-combatant participation, and contributed to their larger experiences of exclusion from the TRC.

A Summary of Institutional Engagement

The institutional engagement framework constructed in Chapter 5 conceptualises the relationship between the actors who affect, and those that are affected by, an institution. Any process or institution that seeks to impart an effect on a society inherently requires engagement of some form. This framework conceptualises institutional engagement to consist of three dimensions: ownership, inclusion and participation. Ownership interacts most directly with the normative domain (rhetoric), and refers to the body of transitional justice entrepreneurs that call for and establish a particular process and set its agenda. Inclusion captures the institutional level, and refers to the relationship between transitional justice actors in the design of transitional justice

⁹⁰ TRC Broker (civil society) interview, Freetown, March 6, 2018.

institutional practices and activities (ritual). Lastly, participation reflects the practical level, capturing engagement of local transitional justice participants within the implementation of an institution's activities directly (reality). In addition to this actor-based understanding of institutional engagement, these practices fall into one of two categories: engagement practices that are outreach oriented (top-down knowledge transfer), and practices that are input-oriented (bi-directional knowledge transfer).

TRC Actors

As operationalised in Chapter 1, transitional justice actors fall into two categories: entrepreneurs and local participants. Ownership and inclusion issues refer predominantly to engagement relationships between the TRC in Sierra Leone and its body of TRC entrepreneurs. The dimension of participation analyses institutional engagement practices in relation to the body of local TRC participants, including the ex-combatant community. However, these dimensions are not entirely distinct, and the treatment of participants as stakeholders means they are now relevant for the dimensions of inclusion and ownership (rather than simply participation). While this thesis therefore bases its analysis of institutional relationships and experiences along a framework of three dimensions, its analysis is not bound by their separateness, and recognises that these are not static or isolated elements.

Institutional Engagement in Sierra Leone's TRC

Ownership in Sierra Leone's TRC

Within the ownership dimension of Sierra Leone's TRC, three categories of TRC entrepreneurs contributed to the establishment of the TRC: civil society (TRC brokers), international actors (transitional justice experts) and the government of Sierra Leone (TRC implementers).

Civil Society

Civil society, as TRC brokers in Sierra Leone, played an instrumental role in the formation TRC, with calls for the institution's original establishment emanating from this segment of society. Civil society

respondents strongly believe in the need for a formalised justice process as a pre-requisite for successful peacebuilding in Sierra Leone: to provide recognition, accountability and to shed light on the horrors of the war, and thereby contribute to societal healing and non-recurrence of atrocities. The sentiment that “without some form of justice we were doomed to see the horrors of war return”⁹¹ is shared by civil society members who participated in the national consultations during this phase. Sierra Leone has a rich history of active justice-seeking, evidenced in its dual legal system. Local court *barrays*, the traditional (informal) courts of Sierra Leone, which pre-date its colonial experience, exist alongside Western formal courts that were introduced with colonisation (Dale, 2008; M’Cormack-Hale, 2017). Historically, local court *barrays* have played (and continue to do so today) a significant role in community dispute resolution, providing a platform for community members to seek recognition of, and redress for, harms suffered. It is therefore unsurprising that calls for a formal justice process dedicated to the extraordinary circumstances of the war would emanate from ‘within’ Sierra Leone, reflective of the deeper justice-seeking practices that characterise the culture of recognition and redress for harms suffered that pre-date both the war and colonisation.

Civil Society: Local and International

The first calls for a TRC in Sierra Leone can be traced back to the efforts of two human rights organisations, Article 19, an international human rights organisation, and Forum of Conscience, a local human rights organisation. Forum of Conscience, led by John Caulker, is described by many civil society respondents as the primary local civil society organisation that advocated for the TRC on the local level. According to one civil society interviewee, “The TRC, and the need for some kind of accountability was our shared vision, and John led the movement that pushed for its creation”⁹². The first call for a TRC in Sierra Leone occurred in July of 1998, in a press release by Article 19,

⁹¹ TRC Broker (Civil society) interview, Freetown, November 21, 2016.

⁹² TRC Broker (civil society) interview, October 8, 2017.

which called for “the establishment of a Truth Commission in order to ascertain the true facts of the conflict and to assist efforts to find the right balance between the twin requirements of justice and reconciliation” (Lunn and Caulker, 2000, Appendix A; p. 1). Interviews with local civil society representatives in Sierra Leone reveal that the local appetite for justice among this population following the war was substantial. In describing the need for justice and accountability after the war, one civil society respondent stated that, “we needed justice after the war. It is well-known that without justice there can be no peace”⁹³. The incorporation of a blanket amnesty provision in the peace negotiations was met with resistance by many, and seen by others as a “necessary but insufficient measure for peace”⁹⁴. Spearheaded by Article 19 and Forum of Conscience, civil society in Sierra Leone pushed for the inclusion of a TRC as a “compromised but necessary form of justice”⁹⁵ to provide some degree of acknowledgement, accountability and healing for wartime atrocities within the peace agreements leading to the end of the war; and continued to press for its expedient establishment in the post-war period.

Consultations in the period leading to the TRC’s establishment took the form of several meetings between local and international transitional justice entrepreneurs, held for the purpose of identifying a viable path to peace in Sierra Leone. These consultations gave national human rights organisations (transitional justice brokers) a chance to influence the trajectory of transitional justice in Sierra Leone and to present a unified position on the need for a TRC (Selim, 2017). In July 1998, a UN Special Conference was held, where the idea of a TRC was discussed. This conference produced an inter-governmental Sierra Leone Contact Group, that met again in January 1999, where the idea of a TRC was again raised. In February 1999, a Human Rights Committee Meeting convened by UNOMSIL once again called for the establishment of a TRC as part of their recommendations for peace. A

⁹³ TRC Broker (civil society) interview, Bo, March 15, 2017.

⁹⁴ TRC Broker (Civil society) interview, Freetown, November 19, 2016.

⁹⁵ TRC Broker (Civil society) interview, Freetown, December 3, 2016.

June 1999 human rights manifesto that declared the establishment of a TRC as key in the “search for peace with justice and respect for human rights” (Lunn and Caulker, 2000, p. 13; Appendix J) was signed by the government, international and civil society actors. The UN, the primary transitional justice expert in Sierra Leone, pledged to provide technical assistance in the realisation of this transitional justice mechanism (Lunn and Caulker, 2000). According to Mahony and Sooka (2015), at the level of international ownership, it was the Office of the High Commissioner of Human Rights (OHCHR) in particular that “pressed for inclusion of a truth commission as a form of accountability that accommodated amnesty” (p. 37).

Civil society respondents supported the establishment of a TRC as a path to justice in Sierra Leone primarily for two reasons: accountability and deterrence. Civil society envisioned a TRC that would enact a minimum degree of accountability through “acknowledgement”⁹⁶ and contribute to conflict deterrence through a rich process of truth-telling that meant not only revealing “what happened but also why”⁹⁷. Additionally, deterrence through reconciliation, was hoped for. A member of civil society reiterated that, “we needed reconciliation to ensure a lasting peace. Without it, the wounds of the past would never heal – they would fester”⁹⁸. Civil society views around the role of, and space for, ex-combatants in the TRC differ, and resultantly no unified position around engagement with this population emerged in the research done for this thesis. Civil society representation of ex-combatants and their justice needs is dealt with in further detail in the inclusion section of this chapter.

The Lomé Peace Accord was signed in July 1999, and included a provision for a TRC (as well as the blanket amnesty which spurred much of the calls for the TRC in the first place), clearly evidencing the formative character of the consultations that preceded it, and revealing

⁹⁶ 18 TRC Broker (Civil society) interviews, Freetown, 2016-2019.

⁹⁷ 18 TRC Broker (Civil society) interviews, Freetown, 2016-2019.

⁹⁸ TRC broker (civil society) interview, Freetown, February 19, 2018.

a degree of formative local ownership at the level of civil society around the institution's initial establishment.

Government

According to one of the chief negotiators of the Lomé Peace Agreement (a government official), the need for a TRC in the peace agreement was critical, as it was “through the TRC (that) the broader ambition of peacebuilding would be achieved”⁹⁹. A week after the Lomé Agreement was signed, President Kabbah “pledged the unqualified support of his government to the process of reconciliation” (TRC Final Report, 2004, Vol. 1, Ch. 2, p. 49). Government ownership of the TRC was further achieved through its enactment of the TRC Act in 2000, firmly establishing the state as a TRC implementer.

Ex-combatants

No direct ex-combatant representation is evidenced in the consultations phase leading to the establishment of the TRC. Acceptance of the provision for a TRC could indicate broader ex-combatant support for this mechanism of transitional justice if warring party leadership present at the negotiating table can be considered genuinely representative of the larger ex-combatant population. However, this does not appear to be the case. The chief negotiator for the Lomé Accord describes the incorporation of the TRC provision as successful primarily because:

they were pre-occupied with the need for an amnesty, so as long as we had the amnesty we put in a clause for the TRC and hoped they would be happy enough not to see that we were still pushing for accountability”¹⁰⁰.

Short-sighted self-interest on the part of conflict party leaders, in combination with conflict fatigue by ex-combatants (Mitton, 2013) together indicate, at best, tacit consent towards the establishment of the TRC, and, at worst, the absence of representative leadership at the peace negotiating table.

⁹⁹ Government Chief negotiator for Lomé Peace Agreement, Freetown, December 18, 2018.

¹⁰⁰ Ibid.

Here the logic of assumed perpetrator participation is strongly evidenced – the calls for a TRC, in response to the blanket amnesty, by eliminating the possibility of punishment (understood in narrowly prosecutorial or punitive terms), was held as sufficient to ensure ex-combatant participation therein, without consideration of their possible justice needs. In describing the infrastructure for participation in the TRC, one TRC official interviewee explained that, “to achieve accountability the TRC was special because it ensured accountability for perpetrators but also gave them a safe space to come forward. By removing the threat of punishment ex-combatants could come and confess freely”¹⁰¹.

Local ownership for the TRC is strongly and formatively evidenced with the genesis of the TRC emanating from calls for justice, accountability and reconciliation by local civil society, with the support of international human rights advocates. The government, as an additional level of the local, showed its support for the TRC through its incorporation within the Lomé Peace Agreement and by pledging support for it. Yet, it would be a mistake to label the genesis of Sierra Leone’s TRC fully locally-owned. International actors, in particular Article 19 and the UN, created an enabling operating environment for the consultations that allowed local civil society to present a unified position on the need for, and vision of, a TRC in Sierra Leone. It is therefore more accurate to characterise Sierra Leone’s TRC as a hybrid model of ownership, wherein both international and various levels of domestic ownership were present. Formative impact is evidenced for these three groups of transitional justice entrepreneur actors in the successful incorporation of provisions for the establishment of the TRC and its legal enactment through the TRC Act (2000). Civil society enjoyed both voice and agency in the ownership component of institutional engagement in the TRC, though representation of ex-combatants was largely absent. No dedicated space for their direct representation is evidenced at the level of civil society and a lack of consensus around the appropriate role and space for their involvement in the TRC showcases their exclusion at

¹⁰¹ TRC official interview, Freetown, May 11 2017.

this level. International ownership is also present, which enabled consultations to be formative and whose influence over the TRC (in its subsequent design and operations) only increased with time. The following section on inclusion analyses engagement practices with regards to the TRC's subsequent design and operations, arguing that formative ownership does not in fact guarantee formative inclusion.

Inclusion in Sierra Leone's TRC

Along the dimension of ownership, a combination of local and international transitional justice entrepreneurs together called for, and established, the TRC in Sierra Leone. Assessing inclusion in Sierra Leone's TRC involves an analysis of engagement activities and developments in the period between the Lomé Agreement of 1999 (during which the TRC was officially called for as part of the peace negotiations process) and the TRC's statement-collecting and hearings phase (also referred to as its operational phase in the TRC Final Report - which will be discussed under participation in Chapter 9). It is during this phase, of inclusion engagement practices, that the TRC's mandate and design took shape, and wherein we can observe the role, agency and power relationships between different TRC actors.

The TRC undertook both input and outreach-oriented engagement practices as part of its inclusion work. It engaged with several actors to cultivate an inclusive transitional justice process, in both formal and formative ways. The following analysis, of inclusion in the design and operations of the TRC, follows an actor-based approach.

Transitional justice entrepreneurs in Sierra Leone's TRC fall into two categories, the local, and the international. This analysis of inclusion as part of the TRC's institutional engagement activities begins with the level of the local, first discussing the relationship between the TRC and the ex-combatant population, before treating other local actors. It subsequently looks at the role of international actors along the dimension of inclusion in the TRC.

Inclusion of Ex-combatants

Dougherty (2004) identifies ex-combatants as one of the four necessary groups whose participation in Sierra Leone's TRC was "integral" to its "credibility" and success (p. 47). According to her, their participation was "considered essential to compiling a complete record of the conflict" (Dougherty, 2004, p. 47). However, despite their necessary participation (as local TRC participants), this study finds that ex-combatants were widely structurally excluded from direct or meaningful institutional engagement within the TRC, and that their role and relevance within the TRC was built on overly simplistic normatively constructed assumptions around their conflict experiences and post-conflict needs and voices. As such, this study finds that ex-combatants, while belonging to the category of explicitly-identified local TRC participants, were not meaningfully treated as stakeholders and did not receive the opportunity to inform the Commission's operations or design as possible entrepreneurs.

Civil Society and Ex-combatants

Underpinning the need for civil society inclusion in TRCs more generally is the assumption that civil society broadly and genuinely represents local and affected populations more largely. Cornwall (2008) highlights that such categorisation risks homogenising groups whose members are diverse and may not self-identify as part of the group(s) they are lumped into and that the use of such categories "raises questions about the basis on which legitimacy is accorded to such *defacto* representatives" (Cornwall, 2008, p. 277). Given the role that civil society played as brokers of Sierra Leone's TRC, can this segment of society be taken to appropriately have represented ex-combatants within the TRC? As discussed in Chapter 7, interviews with civil society TRC brokers reveal two dominant narratives around the role and significance of ex-combatants within the TRC. The need for ex-combatant participation within the TRC is held by some as intrinsic; ex-combatants are seen by this group as a clear and necessary participant stakeholder group whose contributions to the TRC, through participation, were necessary to fulfil the Commission's aims. One member of the TRC Working Group described the

relevance of ex-combatants within the TRC as, “critical – the TRC was for everyone, to learn the truth and for us all to reconcile”¹⁰². However, a divergent understanding of ex-combatant participation is held by other members of civil society, who argue that ex-combatant participation served only an instrumental purpose; their participation was required only to further the grander aim of victim healing (in line with the wider rhetoric of transitional justice, illustrated in Chapter 4), and as such was desirable but not necessary. This latter narrative holds that DDR was dedicated to ex-combatant needs, while the TRC was established to provide redress for victims. Another member of the TRC Working Group illustrates this instrumentalised narrative of ex-combatant participation within the TRC by holding that “the ex-combatants had to confess (at the TRC) so that the victims could heal”¹⁰³. Both narratives are underpinned by the shared assumption of ex-combatants as guilty perpetrators, for which the TRC would provide a platform for apologies and forgiveness-seeking. Such external assumptions around choice and guilt do not reflect the reality of ex-combatant experiences, or the complexity of suffering, as elaborated in Chapters 4 and 7. In the words of former RUF fighter, Tony: “we did not all fight in the war, but we were all victims of it. I wish the TRC would have helped people to understand that”¹⁰⁴. Civil society, as the primary conduit of the broader local within the TRC failed to effectively represent the voices and needs of ex-combatants, thereby contributing to their exclusion from meaningful institutional engagement therein.

Together, the lack of direct engagement with ex-combatants, and a TRC premised around expectations of their participation but built on problematic external assumptions around their experiences and needs resulted in low ex-combatant institutional engagement within the TRC.

¹⁰² TRC broker (civil society) interview, Freetown, December 3, 2016.

¹⁰³ TRC broker (civil society) interview, Freetown, November 21, 2016.

¹⁰⁴ RUF ex-combatant interview, Makeni, February 1, 2018.

DDR and the TRC: a missed opportunity

As discussed in detail in Chapter 7, a small but burgeoning literature on the nexus between DDR and transitional justice has begun to form. DDR, with its principal focus on the (ex-)combatant community, and having begun before the TRC was established, offered a unique opportunity for cross-institutional engagement that could have increased awareness of, support for, and participation in, the TRC among this population. It is notable then that no concrete relationship between these institutions was pursued, with only one formal meeting between TRC and NCDRR staff taking place. This highlights a crucial missed opportunity (Sesay and Suma, 2009) for institutional learning and cooperation to encourage ex-combatant engagement within the TRC.

Outreach Engagement Activities

While the TRC did not seek any direct or representative bottom-up or input-oriented engagement activities with the ex-combatant community, some efforts at outreach (top-down) activities were implemented. Outreach activities were underpinned by transitional justice entrepreneur concerns that ex-combatants would be reticent to participate in the TRC out of fear of reprisals or prosecution, due to the introduction of the SCSL, which was established after the TRC (the validity of these institutional concerns is critically examined in Chapter 7). Unfortunately, by the time the SCSL was established, the majority of the TRC's outreach and sensitisation campaigns had already been undertaken; the TRC had to therefore rely heavily on subsequent sensitisation and outreach work by the SCSL to allay ex-combatant concerns. Two targeted outreach activities merit attention. In response to concerns over potential ex-combatant fears of participating in the TRC linked to the advent of the SCSL, ICTJ funded a sensitisation project by local NGO, the Post-Conflict Reintegration Initiative for Development and Empowerment (PRIDE) (TRC Final Report, 2004, Vol. 1, Ch.5). This project involved sensitisation sessions with ex-combatants, conducting a survey among them, and immediate statement-collection among this population thereafter (TRC Report, 2004, Vol. 1, Ch. 5). According to the report produced by PRIDE

(2002), outreach-oriented engagement such as sensitisation is less effective in generating institutional understanding, support and participation than formatively consultative input-oriented activities. This, according to PRIDE (2002), accounted for the discrepancy between high reported levels of ex-combatant awareness of the TRC and low levels of understanding of the TRC. Additionally, the TRC supported awareness-raising outreach work, led by the local NGO Campaign for Good Governance (CGG), to “address the low level of statements given by members of the Republic of Sierra Leone Armed Forces (RSLAF or SLA)” (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 167). Despite these efforts however, “the number of statements given by members of the military remained low” (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 167). This issue and possible explanations for low military participation are further discussed in Chapter 9, which is dedicated to analysing ex-combatant non-participation.

The lack of direct engagement with ex-combatants, the problematic logic of assumed perpetrator participation, and inclusion activities limited to top-down outreach and awareness-raising culminated in low ex-combatant institutional engagement within the TRC. Inclusion was limited to top-down outreach activities, and moreover constrained in formative impact by a lack of effective representation and voice.

The Government of Sierra Leone

The Government of Sierra Leone played a significant role, as TRC implementers, in the establishment and operations of the TRC, particularly in the composition of the Commission and in exerting an influence over the scope of its subsequent (investigative) work. Government voice and agency within the design, and its impact on the operational agenda, of the TRC is clearly evidenced in several ways. Significantly, government influence over the TRC’s composition resulted in its elite political capture (discussed in detail below), which eroded its local legitimacy, and resulted in local perceptions of the TRC as a “politicised government organ, seeking to construct a victor’s

justice narrative of the war”¹⁰⁵ by civil society, and as a “political witch hunt”¹⁰⁶ by ex-combatants.

Funding

According to Dougherty (2004), “generally truth commissions are funded by their national governments” (p. 43). However, despite its commitment to provide support for the TRC (Mahony and Sooka, 2015), the Kabbah government was “not in a position to offer much support” (Dougherty, 2004, p. 43). As a result, the TRC relied primarily on external international actors, in particular OHCHR, for financial support. The reliance of the TRC on external funds and the role played by external transitional justice experts in the design and operations of the TRC (as discussed below), expanded the scope of inclusion to include these international actors. The effect of this international inclusion was two-fold: on the one hand it expanded the formative space for inclusion to incorporate international actors with expertise in good governance and (transitional) justice, and who were independent from local political ties and biases. On the other hand, the TRC’s reliance on international support and the profound influence exerted by these transitional justice experts over the design and operations of the TRC, contributed to perceptions of the TRC as a “foreign process”¹⁰⁷ and delegitimised it for many Sierra Leoneans. This tension is elegantly captured by Donais (2009) in his discussion on the problematic and necessary balancing act between external involvement and local ownership.

Elite Political Capture

From the outset, (civil society) calls for the establishment of a TRC in Sierra Leone stressed the importance of its independence. A consultative and transparent appointment process for its composition was considered necessary to ensure this independence. As early as February 1999, there were calls for TRC Commission members to be appointed “through consultations with all political, social, religious and

¹⁰⁵ TRC Broker (Civil society) interview, Freetown, March 10, 2017.

¹⁰⁶ SLA ex-combatant interview, Freetown, February 26, 2017.

¹⁰⁷ TRC Broker (Civil society) interview, Freetown, November 21, 2016.

constituencies represented in the country” (Lunn and Caulker, 2000, Appendix F). In June 1999 Forum of Conscience reiterated that “independence from all political parties” should form a key principle in the composition of the proposed TRC, and that achieving this required an “open and transparent” appointments process (Lunn and Caulker, 2000, Appendix I). International consultant and transitional justice expert Priscilla Hayner similarly suggested adopting “creative approaches to commissioner selection”, highlighting that “consultative processes...may increase the degree of legitimacy” of the Commission (Lunn and Caulker, 2000, Appendix M).

Despite consistent calls for a transparent and consultative selection process within the TRC in order to safeguard its independence, Article 3(3), in Part II of the TRC Act (2000) stipulated that both the Commission Chairman and Deputy Chairman were to be “appointed by the President”. According to TRC Working Group Chairman, John Caulker, this formed the one percent deviation within the TRC Act, against the vision and expectations held for it by civil society. “We said this appointment should be left to the hands of the commissioners, but the government said no”¹⁰⁸, resulting in the elite capture and politicisation of the TRC’s core composition, and this “one percent”¹⁰⁹ deviation “killed almost everything”¹¹⁰ that the TRC should have stood for. The entire TRC commissioner election process is described by Mahony and Sooka (2015) as “opaque” (p. 39), and the selection of its chairperson is held by members of civil society as a political move “to ensure that ruling party interests and a victor’s justice narrative”¹¹¹ would lead the work of the TRC. While OHCHR recommended Italian Bishop George Biguzzi to Chair the TRC, the government opted instead for staunch SLPP supporter Bishop Joseph Humper (Mahony and Sooka, 2015).

¹⁰⁸ TRC Broker (TRC Working Group Chairman) interview, Freetown, October 8, 2017.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ TRC Broker (Civil society) interview, Freetown, March 10, 2017.

The politicisation of the TRC's staffing did not end there. Mahoney and Sooka (2015) highlight that "the politics of the establishment of the TRC were complex" (p. 38). AFRC leader Johnny Paul Koroma was made chairman of the Commission for the Consolidation of Peace (CCP), responsible for overseeing the establishment of the TRC. According to Mahony and Sooka (2015) "Koroma's appointment alienated the CCP from the RUF high command due to disintegrating relations between" (p. 38) them. As such, accommodating the interests and representation of the RUF was not prioritised. Additionally, of particular note, was the appointment of Yasmin Jusu-Sheriff, with strong and familial ties¹¹² to the SLPP, as Interim Executive Secretary in the TRC. Her appointment was cause for much concern and controversy over the TRC's independence. Newspaper reports claimed that Jusu-Sheriff's appointment was "rammed through" (Dougherty, 2004, p. 42) by President Kabbah, despite recommendations for an alternative candidate by the TRC's nominating committee. Opinions around Jusu-Sheriff were strongly polarised and she became a "lightening rod" within the TRC, with critics accusing her of incompetence and supporters exclaiming that she was a "scapegoat for the commission's failings" (Dougherty, 2004, p. 42). As Interim Executive Secretary, Jusu-Sheriff appointed SLPP loyalists to key posts, despite objections from international consultants at the UN. According to one Commissioner "some of the staff hired by Yasmin did not appear to be very productive" (Sierra Leone Web, 2002). Relations between the TRC on the one hand, and the UN and civil society on the other, were strained as a result of Jusu-Sheriff. She impeded international consultants in their efforts to initially set up the TRC, did not discuss TRC budget and strategic plans with them, and overrode their decisions, ultimately "making it impossible for the internationals to carry out their mandates" and delaying the operational phase of the TRC significantly (the TRC was not operational until November 2002) (Mahony and Sooka, 2015, p. 40). Management and

¹¹² Yasmin Jusu-Sheriff is the daughter of Salia Jusu-Sheriff - prominent member of the SLPP and vice president of Sierra Leone between 1987 – 1991; and niece of Tejan Kabbah, president at the time.

staffing problems, largely attributed to Jusu-Sheriff, plagued the TRC's preparatory phase (Dougherty, 2004; Sierra Leone Web, 2002) and culminated in a full-fledged staffing crisis in October 2002 (Dougherty, 2004). Concerns over staffing recruitment were raised by UNDP as early as July 2002, when their review found approximately one third of TRC staff hired by Jusu-Sheriff to be unqualified, redundant and politically motivated (Dougherty, 2004). Calls to remove unqualified personnel did not result in any action by the TRC, and in October, when staff contracts expired, the TRC was left without a permanent secretariat in place. Reviews of new applications were brought to a halt when international commissioners questioned the fairness of the process (Dougherty, 2004). OHCHR, UNAMSIL and UNDP were asked to step in and lead staff recruitment, and Jusu-Sheriff "was not considered" (Dougherty, 2004, p. 43) for a permanent position in the TRC's secretariat (Sierra Leone Web, 2002). A scathing newspaper commentary by the Sierra Leonean newspaper, Awareness Times (run by APC loyalist Sylvia Blyden - a journalist and former minister) in 2016 reveals the depth and persistence of the controversy surrounding Jusu-Sheriff's appointment and mismanagement of the TRC. Jusu-Sheriff is described as bringing Sierra Leone "to shame" through her "very inappropriate manner of handling her duties; including employing her in-law(s)" (Awareness Times, 2016). She is further characterised as "a very primary cause behind the failure of the TRC to win the confidence of donors and be what it really should have been" (Awareness Times, 2016). "The stench of corruption around the recruitment done by the Secretariat she led" caused donors to lose faith in the TRC, and her "poor leadership derailed much of the (TRC's) interim period which was a disaster on many fronts" (Awareness Times, 2016). The profound politicisation of key positions in the TRC muzzled the scope and independence of the TRC, as "national commissioners found decisions (and issues) confronting" ruling party interests "extremely difficult" (Mahony and Sooka, 2015, p. 39).

Civil Society

Transitional justice efforts have traditionally been characterised by robust civil society advocacy and engagement. According to

Dougherty (2004) “the involvement of civil society is generally seen as critical to the success of a TRC” (p. 41). Simangan (2017) reiterates this sentiment, highlighting that “various scholars argue transitional justice should listen to voices from below through” formative engagement that combines “participation and local agency” (p. 309). Civil society spearheaded calls for the establishment of the TRC in the first place, and its inclusion in the subsequent design was cemented through the establishment of the TRC Working Group.

In August 1999, the TRC Working Group, chaired by Forum of Conscience’s John Caulker, was established (TRC Final Report, 2004, Vol. 1, Ch. 2). According to the TRC Report (2004) the Working Group’s purpose was:

to involve Sierra Leonean civil society in the TRC process and to ensure that civil society’s concerns would be addressed in the design of the TRC Act and in the ways in which the Commission was going to undertake its task (Vol. 1, Ch. 5, p. 157).

According to John Caulker, the purpose of the Working Group was to “ensure that the views of Sierra Leoneans about how the TRC should operate were considered” (Caulker, 2012, p. 52).

Members of the TRC Working Group describe it as “the bridge between the Commission and the people”¹¹³ whose function was to:

give a voice to the people in the design of the Commission and its activities; widen the reach of the Commission to all corners, urban and rural, of the country; communicate the purposes and aims of the Commission throughout Sierra Leone; and ensure the cultural relevance of the TRC”¹¹⁴.

Together, the mandate of the TRC Working Group, as understood by its members, would contribute significantly to ensuring “the highest participation with the largest potential for meaningful reconciliation and a full account of the war to emerge”¹¹⁵. Significantly, members of the TRC Working Group equally hold that their role was also one of national accountability, stating that “a core part of our function was to

¹¹³ TRC Broker (Civil society) interview, Freetown, November 23, 2016.

¹¹⁴ TRC Broker (Civil society) interview, Freetown, December 2, 2016.

¹¹⁵ TRC Broker (Civil society) interview, Freetown, March 8, 2017.

localise the TRC”¹¹⁶, “to make sure the TRC worked in the justice interests of the people, and not the other way around”¹¹⁷ and:

as the Working Group, it was our duty to advocate for a locally inclusive process, that would be embraced by Sierra Leoneans. As the only voice for the people, we stood at the frontline of legitimising the TRC and working to prevent its international capture”¹¹⁸.

The sentiments of the TRC Working Group are mirrored by the international human rights advocacy group, Article 19, which played a significant role in both calls for the TRC and in supporting local civil society in Sierra Leone in their vision for, and work with, it. As early as March 1999 Article 19 emphasised the need for extensive public consultations on the structure and operations of the TRC. They argued that a broadly inclusive TRC would mobilise “local civil society and Sierra Leoneans and that this inclusion could help end the monopoly of official parties’ over the peace process” (Lunn and Caulker, 2000, p.13).

Engagement with TRC brokers along the dimension of inclusion was therefore considered necessary to legitimise the TRC on the level of the local. Their inclusion was deemed necessary because they were seen to express the voices, interests and justice needs of the broader realm of the local in Sierra Leone. Engagement between the TRC and civil society, primarily the TRC Working Group, predominantly took the form of consultations. The Working Group itself also undertook engagement activities to gather local voices, facilitate discussions and disseminate information about the TRC across the country.

In September 1999, the TRC Working Group, together with the National Commission for Democracy and Human Rights (NCDHR) published recommendations on the mandate and operations of the TRC. The two primary recommendations of a report produced by Article 19 and Forum of Conscience noted that the TRC should be

¹¹⁶ TRC Broker (civil society) interview, Freetown, December 2, 2016.

¹¹⁷ TRC Broker (Civil society) interview, Freetown, December 3, 2016.

¹¹⁸ TRC Broker (TRC Working Group Chairman) interview, Freetown, October 8, 2017.

composed of both international and national commissioners, and that the TRC should operate with subpoena powers (Lunn and Caulker, 2000). Both recommendations were incorporated into the final mandate of the TRC, evidencing formative inclusion for civil society voices, and granting them agency in influencing the design of the TRC. According to the TRC Working Group Chairperson, ultimately the TRC Act substantively reflected the wishes and voices of the Working Group, who stated that “99 percent of that Act reflect(ed) our wish”¹¹⁹.

However, members of the TRC Working Group emphasise three areas in which the TRC failed to translate their voices into influence, which significantly contributed to the TRC being seen as an “external imposition that lacked credibility and therefore could not be effective as a tool for genuine reconciliation”¹²⁰. Firstly, poor public awareness and sensitisation of the TRC around the country is widely held to underpin low local inclusivity and perceptions of legitimacy. Secondly, calls for a localised approach to TRC operations went unheard. Lastly, the lack of transparency and consultations around the appointment of key TRC staff evidences its elite political capture, and was seen by civil society as an important indicator of the Commission’s politicisation. Together, the failure to translate civil society voice into influence along these dimensions highlights their restricted (or merely formal) inclusion in the TRC.

Public Awareness

Consistent calls from the TRC Working Group for increased public awareness, education and support activities throughout Sierra Leone, to enhance the breadth of inclusion went unheard. The draft TRC mandate, produced in September 1999 by UN Consultants, was only subject to “very limited circulation” (Lunn and Caulker, 2000, p. 15) within the country, despite requests by the TRC Working Group for wider distribution. The TRC Working Group organised two stakeholder workshops in October to broaden discussions around the draft mandate of the TRC between its architects (UN consultants) and the

¹¹⁹ Ibid.

¹²⁰ TRC Broker (Civil society) interview, Freetown, March 10, 2017.

wider population of civil society organisations. One of the UN consultants responsible for the draft TRC mandate participated in only one of the two workshops held, signalling a lack of commitment to broad inclusivity with civil society. Additionally, Article 19 together with the TRC Working Group proposed a number of ideas for promoting public awareness and support for the TRC to the UN, including expanded public sensitisation activities and the promotion of public ownership through the use of “share vouchers”, none of which materialised (Lunn and Caulker, 2000, p. 16). In February 2000 the final TRC Act was passed in Sierra Leone, without public consultations, and with limited distribution among civil society, despite calls for such engagement by the TRC Working Group. According to Article 19 and Forum of Conscience “a major opportunity to use the legislative process to build public support and understanding for the TRC had been missed” as a result (Lunn and Caulker, 2000, p. 16).

Localising the TRC

Since its establishment, the TRC Working Group advocated for a localised structure, calling for the creation of “mini commissions” (Caulker, 2012, p. 52) that would operate in all parts of the country, at the community level, and run by community members with training and external assistance from the TRC, that would feed into the overall reconciliatory aims of the TRC. According to one member of the TRC Working Group, such a localised approach was not only natural but necessary because:

reconciliation was to take place everywhere and between people in their communities, so the TRC needed to come to them, and to help facilitate this healing. If we need to heal and reconcile in our own communities, in our everyday lives, this is where the TRC needed to take place¹²¹.

As the TRC entered its operational phase, resource and time constraints inevitably limited both the reach and depth of its statement-collecting and hearings activities. Statement-collecting took place over four months, and one week in each district was devoted to public hearings (TRC Final Report, 2004). Hearings were held in district

¹²¹ TRC Broker (Civil society) interview, Freetown, December 5, 2016.

headquarter towns, with provisions made for the transportation of selected participants (selected primarily from among the statements collected in the statement-collecting phase) (TRC Final Report, 2004).

According to TRC Working Group Chairperson John Caulker, there was “not enough time”¹²² allotted to hearings. Furthermore, holding them only in district headquarter towns kept the TRC “far away from many people”¹²³. Despite the integral role of public participation in fulfilling the mandate of the TRC, limitations on time and reach of the hearings created significant barriers to participation. According to Dougherty (2004), people were eager to testify, but funding shortfalls and delays experienced by the TRC meant there was simply not enough time allocated to each province. Similarly, members of the TRC Working Group hold that the absence of a more localised approach to promoting participation (only holding hearings in urban centres around the country) made it impossible for many of those affected by the war to attend and participate. “For many Sierra Leoneans the TRC was simply not accessible”¹²⁴ reiterated a member of the TRC Working Group.

Finally, the politicisation of the TRC, in its composition and operations (as detailed above), formed a critical shortcoming that highlighted the increasingly formal character of inclusion practices, and contributed to low levels of cross-cutting participation and legitimacy.

Consultations

Engagement practices as part of inclusion took the form of both input and outreach-oriented activities during this phase of the TRC. The Commission clearly sought to create the kind of “communities of practice” (p. 272) envisioned by Quick and Feldman (2011), by fostering long-term and sustainable reconciliation and societal healing, an ambition inherent to the broader project of truth commissions. Yet, inclusion pursued by the TRC was limited in both scope and depth.

¹²² TRC Broker (TRC Working Group Chairman) interview, Freetown, October 8, 2017.

¹²³ Ibid.

¹²⁴ TRC Broker (civil society) interview, Freetown, February 19, 2018.

Due to the prescriptive character of civil society inclusion in the TRC, it is held to have, “at best contributed to moments of forgiveness without creating a larger process of community or national reconciliation”¹²⁵. The restricted space for reconciliation within the TRC is echoed by other segments of the local, by respondents representing community members with diverse conflict experiences in areas where the TRC operated, civil society representatives, and those who worked directly with the TRC itself. Freddie, a former SLA soldier explained that, “reconciliation takes a long time. The TRC should have stayed if it was to really bring reconciliation to the communities”¹²⁶. Similarly, one TRC official reiterated that, “reconciliation was an unreasonable ambition with the short time frame and budget we were given”¹²⁷.

Civil society, as the primary representative of the voices of local beneficiaries, was awarded an increasingly prescriptive (formal) voice in ongoing consultations, in the form of the TRC Working Group. Additionally, variance among civil society around whose needs the TRC should and did address indicate a lack of effective representation for the breadth of conflict experiences, all of whom were meant, at least in theory, to actively participate in, and benefit from, the platform for reconciliation and truth-telling offered by the TRC. This is particularly evident when considering the experiences of ex-combatants, labelled as perpetrators by the entire body of transitional justice entrepreneurs, including the TRC and civil society, whose needs did not receive dedicated expression as part of inclusion. Even the term ‘perpetrators’ used by the TRC to refer to the entire ex-combatant population is in and of itself indicative of the absence of representation and agency accorded to them. Many ex-combatants agree with the sentiment expressed by Darren, a former CDF fighter, that “this term was not fair. Yes I fought in the war, but I am not a perpetrator”¹²⁸.

¹²⁵ TRC Broker (Civil society) interview, Freetown, November 23, 2016.

¹²⁶ SLA Ex-combatant interview, Bo, January 17, 2018.

¹²⁷ TRC Official interview, remote, April 27, 2018.

¹²⁸ CDF Ex-combatant interview, Bo, March 12, 2017.

Role of Chiefs

One significant dimension of consultative local inclusion in Sierra Leone's TRC is the role accorded to local Chiefs in order to encourage participation and foster reconciliation among the local.

One way to foster local inclusivity, build local ownership and promote participation is through utilising existing cultural practices and structures. The logic of participation here holds that the incorporation of cultural practices and structures creates more locally familiar and relevant processes and thereby increases local 'buy in'. However, identifying appropriate pre-existing structures and practices is key to the success of such engagement activities, and forms another way to observe the breadth and formative character of engagement.

The TRC utilised Sierra Leone's chieftaincy structures in an effort to "legitimise reconciliation" (Mahony and Sooka, 2015, p. 46). The decision to base reconciliation "on the country's own culture, tradition, and values" (Mahony and Sooka, 2015, p. 46) by involving chiefs and religious elders reflected an attempt to increase local ownership of the TRC's reconciliatory mandate. However, this approach was problematic as it actually resulted in using the "very power structures that fermented conflict to enable reconciliation" (Mahony and Sooka, 2015, p.46). Friedman (2017) reiterates the risks that accompanied such an effort at localisation, among Sierra Leone's alternative reconciliation efforts, notably that of the grass-roots organisation Fambul Tok. She highlights that while Fambul Tok's engagement with the chiefdom system in Sierra Leone helped provide "ownership and legitimacy" (Friedman, 2017, p. 120) it simultaneously risked "reinforcing pre-war social hierarchies and inequalities" (p. 121). The issue of chieftaincy in Sierra Leone, its role in causing and enabling the conflict, and as a conduit of local reconciliation, was fraught with challenges in the TRC. According to Mahony and Sooka (2015) the TRC was constrained in its ability to investigate and shed light on the role of chieftaincy as a contributing factor to the war, from the outset. Local chiefs in Sierra Leone play a historically significant role in community governance, however this has been increasingly

politicised, by both colonial and successive governments (Enria, 2015). While evidence on the role of chieftaincy and patrimonial power structures as contributing to the onset and continuation of the war now abounds, the TRC elected to adopt an engagement strategy that relied heavily on “chiefs, elders and religious institutions” (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 144). A study by a local NGO, Manifesto 99, commissioned by OHCHR to identify traditional methods of reconciliation and conflict resolution, identified chiefs, elders and religious institutions as significant local structures for facilitating and promoting reconciliation on the community level (TRC Final Report, 2004). The TRC therefore elected to adopt an engagement strategy to promote local ownership that intimately involved local chiefs in its operations, to increase the institution’s local legitimacy and cultivate local ownership of the process. TRC investigators were required to obtain local chief consent before conducting their investigations, and chiefs participated in TRC hearings as part of the concluding reconciliation ceremonies (Kelsall, 2005).

Mahony and Sooka (2015) highlight that the requirement to obtain chieftaincy consent by TRC investigators “diminished investigators’ ability to anonymously contact and interview witnesses” (p. 46). This weakened the capacity to “procure authentic testimony relating to the effects of chieftaincy power” (Mahony and Sooka, 2015, p. 46). Secondly, the issue of chieftaincy and addressing it, polarised the TRC at the level of its Commissioners as well. According to Mahony and Sooka (2015), “some domestic commissioners were especially hesitant about seriously addressing the chieftaincy issue” (p. 46) which left other Commissioners feeling they were “not able to go as far as they felt the evidence demanded in citing chieftaincy and patrimonial power structures as causing and enabling the conflict” (p. 46). Discord among Commissioners around addressing the chieftaincy issue evidences elite capture that ultimately negatively impacted the TRC’s ability to function effectively and without bias. This negative impact is further evidenced in the TRC Report, wherein “Sierra Leone’s patrimonial power structures were not attributed the responsibility the evidence suggested would be appropriate” (Mahony and Sooka, 2015,

p. 46). This sentiment is echoed by a respondent in Sierra Leone's justice sector in their statement that "justice, and transitional justice, is undeniably a political enterprise, shaped and also limited by the agendas of those who enforce it"¹²⁹.

Finally, chiefs were given a role in the reconciliation activities of the TRC, in particular in the reconciliation ceremonies that concluded TRC Hearings. While Kelsall (2005) emphasises the use of "traditional leaders" (p. 386) in the TRC as enabling reconciliation and diffusing tensions, Mahony and Sooka (2015) point out the darker side of this practise, whereby youth and perpetrators were required to "re-subordinate themselves to the very power structures they cite as the source of their discontent and against which they rebelled" (p. 47). The role that chiefs played in "accepting and authenticating ex-combatant" (Mahony and Sooka, 2015, p. 47) apologies and directing their reconciliation within communities mirrored the power inequalities that lay at the root of the civil war in the first place. Ex-combatants who participated in a conflict geared towards dismantling inequitable power structures were made to 'repent' to chiefs, individuals who benefit(ed) from the structures of power that enabled that very conflict. This attempt at formative local inclusion served to further alienate the ex-combatant community from the TRC, effectively delegitimising it and rendering perceptions of the TRC as a political "witch hunt"¹³⁰.

International Actors

On the international level, along the dimension of inclusion, the TRC engaged with, and relied on, international support to shepherd its design, funding and operations. Several arms of the UN, OHCHR in particular, played a significant role within the TRC as transitional justice experts. OHCHR "led the process of establishing the TRC" and far exceeded its original commitment to providing merely "technical support" (Mahony and Sooka, 2015, p. 38). Its role in designing the Commission "was much more significant than that of any" other external state actor (Mahony and Sooka, 2015, p. 38). According to

¹²⁹ TRC Broker (civil society) interview, Freetown, January 19, 2019.

¹³⁰ 21 Ex-combatant interviews, between 2017 and 2019.

Dougherty (2004), “OHCHR played an unprecedented role” in Sierra Leone’s TRC, “involving itself in every phase of the development of the Commission” (pp. 42-43). Furthermore, Sierra Leone’s TRC “represented OHCHR’s first substantial undertaking in support of a transitional justice mechanism anywhere in the world” (Dougherty, 2004, p. 42). The three international Commissioners that gave the TRC its hybrid composition were selected by OHCHR, which allowed “national familiarity and international expertise to complement one another” (Dougherty, 2004, p. 42). The benefits of such hybridity are well recognised, but as Donais (2009) demonstrates, difficult to achieve in praxis. International inclusion served an important watchdog function and provided the financial backing that made the TRC operational. International Commissioners were more openly critical than their national counterparts, who were reticent to challenge ruling and established elites. However, it also fomented discontent on the local level, wherein this internationalisation was experienced as local disengagement and transitional justice imperialism. As the primary architect and administrator of the TRC, OHCHR exerted an influence proportionate to that role, establishing a hierarchy of agency along the dimension of inclusion among transitional justice entrepreneurs. Members of civil society, within the TRC Working Group and outside it, felt side-lined and considered their inclusion in the TRC increasingly prescriptive in character. According to one member of the Working Group:

establishing the Working Group was necessary. We, in the Working Group, saw it as a signal of the TRC’s commitment to really engaging with us. But it became clearer over time that they didn’t really want to listen to us¹³¹.

Another reiterated that “the Working Group meetings with the TRC became a disappointment. The TRC was more interested in pleasing the donors and listening to outsiders than letting us really speak for the country”¹³². Thus, while inappropriate engagement with local culture and traditions (see above discussion on the role of chiefs) further

¹³¹ TRC Broker (Civil society) interview, Freetown, February 19, 2018.

¹³² TRC Broker (Civil society) interview, Freetown, December 1, 2016.

marginalised ex-combatants from the TRC, Friedman (2017) also notes that outright insufficient engagement of local culture and traditions were additionally particularly grave shortcomings that cultivated disappointment and discontent towards the TRC.

In conclusion, along the dimension of inclusion, clear power asymmetries between different transitional justice entrepreneurs in Sierra Leone's TRC come to the fore. Ex-combatants remained directly excluded from institutional engagement, and civil society representation of this group was neither unified nor representative. As the only non-state group of local actors belonging to the body of TRC entrepreneurs on the level of the local, civil society engagement within inclusion took on an increasingly prescriptive character. This bred discontent and strained cooperation between the TRC Working Group and the TRC itself. The government of Sierra Leone exerted a high degree of influence over the design of the TRC, though this agency was corrupted and resulted in the politicisation of the TRC's composition and investigations. International actors played an important role in providing international expertise and serving an external watchdog function, though ultimately also exerted a disproportionate influence over the TRC's designs and operations that curtailed the formative inclusion of other actors. Along the dimension of inclusion, TRC institutional engagement exhibited an increasingly shallow depth and narrow scope, with agency concentrated in the hands of unrepresentative national and international actors. According to the TRC Working Group Chairperson "the TRC we got was not the TRC we asked for"¹³³.

Conclusion

Given the particular significance accorded to participation, this dimension of institutional engagement will be treated in detail in the subsequent chapter of this thesis, Chapter 9.

¹³³ TRC Broker (TRC Working Group Chairman) interview, Freetown, October 8, 2017.

This chapter has applied the framework of institutional engagement developed in Chapter 5, to identify and empirically assess the structural relationship between the TRC in Sierra Leone and the ex-combatant community in particular, and between the TRC and its larger population of transitional justice actors more generally. This framework draws from the literature on participatory approaches that has become mainstreamed in transitional and development research, and presents a more nuanced understanding of the inherent questions of power, agency and voice that underpin relationships between institutions and actors. This examination has exposed the consistent and structural exclusion of ex-combatants from meaningful institutional engagement, despite their identification as a necessary and vulnerable transitional justice participant category. Institutional engagement with other TRC entrepreneurs on the level of the local, namely civil society and the Government of Sierra Leone, showcases power asymmetries and the exploitation of agency. Institutional engagement with civil society exhibits, empirically, a decrease in depth and influence as engagement moved from ownership to inclusion. Conversely, national government agency increased across the two structural dimensions of institutional engagement, resulting in the elite political capture of the TRC with detrimental effects on its effectiveness and scope of investigations. At the international level, international actors played an important role, as transitional justice experts, in providing external expertise and support for the TRC, but also contributed to alienating local engagement. This highlights the practical challenges in balancing international involvement against the need to formatively involve, and buttress, local voices and capacities. Appropriate breadth and depth of institutional engagement underlie the logic of participation that effective institutional engagement requires. This is a balancing act that the case of Sierra Leone proves is difficult to achieve in practice. Chapter 9 will conclude this thesis's discussion on institutional engagement and experiences by assessing ex-combatant (non-)participation within the content of Sierra Leone's TRC.

Chapter 9

Perpetrator Participation in Sierra Leone's TRC: *the untold ex-combatant story*

I was a fighter; I was also a victim. We need justice too – the ones that fought for our lives, and our families and our country. Tell the TRC to come back and hear our stories, to understand that we had no choice, and that we are not just fighters. We still struggle, and they should come back to help us¹³⁴.

Introduction

This chapter is the second of two institutional engagement chapters that together capture the experiences of ex-combatants and the TRC. Chapter 8 has analysed practices of TRC institutional engagement in relation to ex-combatants along the dimensions of ownership and inclusion. Together, these two experience chapters (Chapters 8 and 9), applying the institutional engagement framework built in Chapter 5, build on gaps in the broader participatory programming discourse. They advance and apply a more concrete and nuanced framework of institutional engagement practices, using the illustrative case of the problematic participation of ex-combatants in Sierra Leone. This chapter critically engages with the practical dimension (the reality) of the TRC in Sierra Leone, critiquing its practice of justice seeking, and argues that restrictions in its normatively derived (rhetoric) and institutionally defined participation model (ritual) created significant barriers to meaningful ex-combatant participation therein.

The previous chapter has conceptualised institutional engagement in the context of TRCs, and applied this framework of engagement to Sierra Leone. It has used the experiences of ex-combatants to shed empirical light on their experiences of agency and exclusion along the dimensions of ownership and inclusion, within this restorative model of transitional justice. This chapter presents an empirical examination of ex-combatant experiences of non-participation, as the final dimension of TRC institutional engagement. Participation requires a separate and

¹³⁴ RUF ex-combatant interview, Bo, October 2, 2017.

dedicated space for investigation and consideration as it is within this dimension that engagement with affected populations (local transitional justice participants) is most highly sought. This chapter proceeds firstly with a theoretical analysis of the model of participation in truth commissions. An overview of participation within the structural context of Sierra Leone's TRC is provided, followed by a brief summary of participation expectations held by the ex-combatant community specifically. The conflicts inherent to the general model of truth commission participation that deter ex-combatant participation are identified before turning to a substantive examination of these problems. This examination applies and expands on Nwogu's (2010) three-part argument on the problematic narrative structure of truth commission participation, in relation to perpetrators specifically. According to Nwogu (2010), truth commissions fail to achieve their own attainable goals by failing to adequately investigate the motivations that underlie past violence; by placing binary narrative restraints on participation; and by elevating victim voices over perpetrator participation. Expanding on her work, this chapter contributes to an overall understanding of participation constraints and limitations in truth commissions by elucidating external and voluntary sources of exclusion (or participation deterrents) experienced by ex-combatants in Sierra Leone.

Truth Commissions and Participation: a theoretical analysis

The following section presents a theoretical analysis of participation within the context of truth commissions, as a restorative mechanism of transitional justice. It addresses the following questions: What does participation in TRCs mean according to their proponents and architects? What does participation achieve? Whose participation is sought, and why? And finally, why is this conventional model of participation problematic? The case of Sierra Leone is used throughout to illustrate the practice and associated problems of this model of participation.

As outlined in Chapter 5, participation is the third and final dimension of institutional engagement. While ownership and inclusion (the first

two dimensions of institutional engagement) comprise the structural components of institutional engagement, participation captures engagement between institutional actors (transitional justice entrepreneurs) and its local participants within the substantive activities of a particular process or institution. Institutional engagement along the dimensions of ownership and inclusion is widely geared towards enhancing engagement through participation in the substantive activities of an institution. According to the logic of participation (see Chapter 5), which underpins the advocacy and mainstreaming of participatory programming, highly locally-owned and inclusive processes bolster subsequent participation, through the mechanism of legitimacy which inclusion and ownership enhances. For TRCs, participation takes place within their statement-collecting and hearings activities¹³⁵. The space for participation within TRCs is therefore small, restricted to one or two substantive activities. Yet the ambitions attached to such participation, of fostering healing, social repair and reconciliation, are lofty.

What Does Participation Achieve?

Participation is a defining feature of truth commissions. In her 2011 revised definition of TRC aims Hayner (2011) states that a truth commission “engages directly and broadly with the affected population, gathering information on their experiences” (p. 12). The explicit incorporation of broad, direct and high participation as a constitutive element of TRCs is absent from her original 2001 definition; the addition of participation to her revised 2011 definition evidences its increasing significance as a defining feature of TRCs over time. The need for participation, and the high intrinsic levels of participation attached to TRCs by their proponents, is fundamentally tied to the role that participation plays in achieving the aims of this mechanism of transitional justice. TRC aims can be grouped into three

¹³⁵ Participation can additionally take place within the research and investigative activities carried out by many truth commissions, including that of Sierra Leone. However, this activity is much more opaque and of little relevance to this broader discussion, as it does not claim to impart a benefit to its participants.

categories: truth-telling, restoration and deterrence. Fulfilment of all aims requires participation, most saliently that of truth-telling (establishing a historical record). According to Macdonald (2013), TRCs enjoy a “significant advantage” in truth-telling because their high inherent degree of participation generates a “broad perspective” on past episodes of violence (p. 91). The “particular practice of memory” (Millar, 2015, p. 242) implicit within truth commissions requires high local participation in order to be realised. This “collective memory project” (Nwogu, 2010, p. 276) that requires participation serves not only to elucidate the events of the past, but significantly, also to uncover its underlying causes and motivations. According to Hayner (2006), a truth commission “must aim to understand the origins of past conflict and the factors that allowed abuses to take place” (p. 296). Participation that is “inclusive of a wide range of perspectives” (Hayner 2006, p. 296) is a prerequisite to achieving such understanding. Nwogu (2010) reinforces this, arguing that a critical feature of truth commissions is that they effect “justice through a collective memory project...intended to provide an understanding of the violent past, repair social relations between warring parties and offer a lasting reminder of the atrocities to deter future generations” (p. 277).

Participation Within the Constructs of Sierra Leone’s TRC

The Lomé Peace Agreement of 1999 called for the establishment of a TRC that would “provide a forum for both the victims and perpetrators of human rights violations to tell their story, get a clear picture of the past in order to facilitate genuine healing and reconciliation” (Art. XXVI). The TRC Act of 2000 established the objects of the Commission, mandating it to “create an impartial historical record” (Part III, Art. 6(1)) of the war. The TRC Final Report (2004) reiterates the purposes of the TRC as a body established to “promote reconciliation by providing an opportunity for victims to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators” (Vo. 1, Ch. 1, p. 25). According to former TRC officials (TRC implementers) “participation

was the heart of the TRC”¹³⁶, “without it there could be no TRC. Everything we did, we did to get people to participate. A TRC only works if people participate”¹³⁷.

Participation not only stemmed from legitimacy, but according to TRC officials, also served an external legitimising function for the Commission, which had to share the transitional justice stage with the SCSL.

*The Court (SCSL) had all the resources – the money, the experts. We (the TRC) had only meagre funds and time. But we had the people – by participating them we had a credibility that the Court never did. Participation gave us the legitimacy as a serious justice process to stand tall next to the Court. Even today, people know the TRC more than the Court, because the people participated in the TRC, not the Court*¹³⁸.

The participatory framework upon which the TRC was built was therefore necessary for it to achieve its mandated truth-telling and reconciliation aims, but also imbued it with institutional credibility in a context of tense co-existence between multiple transitional justice mechanisms. Over the course of the truth commission’s participation activities in Sierra Leone, this “nationwide exercise in truth-telling from late 2002 to August 2003, memories of violence were gathered as written statements, narrated during public hearings and broadcast on the country’s electronic media” (Shaw, 2007, p. 184). Ultimately, the TRC collected over 7,000 statements (TRC Final Report, 2004).

Whose Participation?

Truth commissions are structurally obligated to seek participation from a cross section of conflict affected populations. The need for broader ‘non-victim’ participation (in particular that of perpetrators) has already been established in Chapter 6. Sierra Leone’s TRC Final Report (2004) elaborates the statement-taking protocols and obligations that underpinned its participation work. It required statement-takers to “collect statements from both victims and perpetrators”, reiterating that “the purpose of the Commission is to give an opportunity to victims,

¹³⁶ TRC Official interview, Freetown, May 14, 2017.

¹³⁷ TRC Official interview, Freetown, May 5, 2017.

¹³⁸ TRC Official interview, Freetown, May 10, 2017.

perpetrators and witnesses to the conflict to speak about their experiences” (Vol. 1, Ch. 5, p. 184; p. 185). In its manual for statement-takers the Report (2004) emphasised that “the Commission is for everybody; it is to seek truth and promote reconciliation” (Vol. 1, Ch. 5, p. 185). The relationship between cross-cutting participation and truth-seeking is once again apparent in the Commission’s mandate discussion (TRC Final Report, 2004), wherein it is asserted that “‘truth’, including ‘historical truth’, must by definition be impartial. A ‘partial’ truth is no truth at all” (Vol. 1, Ch. 1, p. 32).

Perpetrator expectations of the TRC in Sierra Leone

The question of expectations around TRC participation, on both institutional and individual (ex-combatant) levels has been addressed in Chapter 7 where significant divergence has been revealed. For the ex-combatant community, the TRC should have been a place for the sharing of wartime experiences, and to catalyse broader reconciliation by achieving an understanding of these experiences through their contextualised narratives. What they in fact witnessed was a process that demanded confession and restricted the complexity of their experiences to “what they did, and not why they did it”¹³⁹.

While ex-combatants expected the TRC to provide a platform for the expression of contextualised narrative experiences, this does not mean that ex-combatants did not also hold justice expectations towards the Commission. Indeed, the notion of the TRC as a place for “perpetrators to confess”¹⁴⁰ their crimes and wartime wrongs is widely linked to the TRC among this population, and it is generally seen as a platform wherein perpetrators could and should have “explained themselves”¹⁴¹ and asked for forgiveness. However, interviewed low to mid-level ex-combatants who constitute the majority of the ex-combatant population, and who fall within the category of ‘perpetrators’ (alongside higher level commanders and architects of violence), overwhelmingly do not self-identify as perpetrators, and therefore

¹³⁹ TRC Broker (Civil society) interview, Freetown December 5, 2016.

¹⁴⁰ Civil society and TRC officials interviews, Freetown, 2016-2019.

¹⁴¹ TRC Official interview, Freetown, May 20, 2017.

consider this purpose of participation as removed from their own potential role as participants in the TRC. They did not consider themselves therefore to be the appropriate participants of the TRC with regards to the classification of their wartime experiences imposed by the TRC.

Interviewed ex-combatants agree the TRC was established in order to “learn the truth about the war”¹⁴² by collecting people’s experiences and creating a “comprehensive history”¹⁴³ by consolidating these honest and contextualised narratives from its participants. However, many hold the conflict narrative produced by the TRC Report to be “incomplete”¹⁴⁴, in two ways. Firstly, low levels of ex-combatant participation in the TRC inherently limited the TRC’s ability to gather a comprehensive history of the war, from exactly the population with the most direct experience of it. As one civil society respondent (TRC broker) said “the TRC did not talk to the right people (ex-combatants) in the right way. The ex-combatants were a critical but untapped resource for getting to the truth, but we did not engage them the right way”¹⁴⁵. Secondly, many ex-combatants claim that not only did their non-participation guarantee an incomplete historical narrative, but also an inaccurate one. It is unsurprising to observe ex-combatants question the legitimacy or veracity of the narratives produced by the TRC that “demonised”¹⁴⁶ the groups or people for which they fought, with many former RUF combatants in particular holding that the “TRC blamed us (the RUF) for everything”¹⁴⁷. However, beyond this, a number of ex-combatant respondents claim that several specific testimonies collected by the TRC were false; these testimonies would have been disproven through corroborating statements by other ex-combatants, if those statements had been collected in the first place.

¹⁴² Ex-combatant interviews throughout 2017 and 2018 (86 interviews) in Sierra Leone

¹⁴³ 12 Ex-combatant interviews in 2017, in Freetown.

¹⁴⁴ 72 Ex-combatant interviews between 2017 and 2019, Sierra Leone.

¹⁴⁵ TRC Broker (Civil society) interview, Freetown, April 15, 2018.

¹⁴⁶ RUF Ex-combatant interview, Makeni, August 20, 2018.

¹⁴⁷ RUF ex-combatant interview, Makeni, August 22, 2018.

Felix recounted hearing a former RUF comrade's testimony on the radio:

At first I was surprised to hear his name and recognise his voice. But then I was more surprised by what he was saying, claiming he was fighting with the RUF in the North during the war when he was with me in my unit, and we were never in the North. I would have told them the truth, if they had asked me¹⁴⁸.

Another ex-combatant, Hector, forcibly recruited as a child-soldier into the ranks of the RUF, who was named in the Commission's Final Report, but who never directly participated in the TRC, shared that:

Yes I did some bad things, and some of what they reported about me is true. But not all of it is. They knew my name and where I was, but no one from the TRC ever contacted me to get the truth from me – who else can know the truth about what I did, or why? They should have talked to me¹⁴⁹.

Despite the explicit obligation to ensure cross-cutting participation, the practice and discourse of truth commissions widely posits that these bodies are 'victim-oriented'. The restorative aims of such commissions refer significantly to the restoration of victim dignity and facilitating social repair through victim healing and reconciliation. A fundamental conflict between victim primacy and the collective memory ambitions of truth commissions begins to emerge. This is further compounded when considering the reconciliation ambitions of these bodies, a concept which is treated in more detail in the next chapter of this thesis (Chapter 10).

The Problematic Model of Truth Commission Participation

Nwogu (2010) elegantly captures some of the participatory shortcomings of TRC practices in relation to perpetrators. She argues that "TRCs as a transitional justice mechanism, have fallen short of what is achievable within the context of their own aspirations" (Nwogu, 2010, p. 276). This failure is "due primarily to the structural application of the narrative process" (p. 275) in three main ways. TRCs neglect an examination of the motivations behind violent actions; participant (victim and perpetrator) voices are restrained into archetypal binary

¹⁴⁸ RUF ex-combatant interview, Freetown, February 22, 2017.

¹⁴⁹ RUF Ex-combatant interview, Freetown, February 23, 2017.

collective accounts; and finally, victim voices are elevated over perpetrators within TRCs. This chapter applies and expands Nwogu's (2010) three-part argument on the problematic narrative structure of TRC participation; ex-combatant experiences of non-participation in Sierra Leone's TRC are used to illustrate the Commission's participatory shortcomings.

Motivations

Chapter 4 has discussed the importance of local actor motivations as a critical component of truth-telling; however, to-date truth commissions have largely ignored motivations in their memory-collecting endeavours. The absence of motivations as part of the memory-collecting project in truth commissions fundamentally restricts the scope and transformative power of this truth-telling work. According to Nwogu (2010), the first problematic narrative condition of truth commissions "results from a disproportionate focus on the what, where and how of particular outcomes, which undermines the repair of social relations in the long term" (p. 276). Truth commissions "focus too much on memory-making marked by the narration of events, paying little or no attention to the...motivations of its agents, in the mental universe of its most humble perpetrators" (Nwogu, 2010, p. 277). Nwogu (2010) argues that "accessing the underlying reasons for human rights violations is already clearly articulated in TRC mandates", which are empowered to "investigate the foundations of violence if they so choose" (p. 279). The case of Sierra Leone is no exception, whose TRC was mandated to "investigate and report on the causes, nature and extent of the violations and abuses" of the war (TRC Final Report, 2004, Vol. 1, Ch. 1, p. 25). The TRC Act (2000) also explicitly outlines the appropriateness and need for the role of motivations in relation to the civil war; it called upon the Commission to uncover "to the fullest degree possible, including their antecedents, the context in which violations and abuses occurred" (Part III, Art. 6). In an interview with a prominent member of civil society (TRC broker),

she shared, “the TRC told us about what happened in the war, but not why”¹⁵⁰. Another civil society respondent echoes this sentiment:

*The TRC failed in answering the ‘why’ question. It demanded only that the ex-combatants come forward and recount what they did, but did not give them the space or freedom to tell why they did these things – the record is incomplete and less useful as a result*¹⁵¹.

This narrative condition that neglects motivations thereby withholds a “democratising truth” (Nwogu, 2010, p. 279). Instead a demonstrative truth is sought, as highlighted by Posel’s discussion on South Africa’s TRC (2002). She argues that the South African TRC aimed “to produce enough truth to demonstrate and exemplify the inequalities of the past. A sample of the truth rather than the whole would suffice” (Posel, 2002, p. 157). Each ex-combatant interview conducted for this thesis, concluded by asking: ‘Is there anything else you would like to say or share before we end the interview?’¹⁵² Overwhelmingly, respondents used the opportunity provided by this question to elaborate the details around the sequence of events that resulted in their conflict participation as fighters, and resultantly their entry into the status of ‘perpetrators’ according to the participation framework offered by the TRC. Even though the question of what prompted their transformation into combatants was previously asked, as part of the interview guide, over 85 percent of respondents repeated, and elaborated on, the details of why they fought in the war. Junior, an ex-combatant living in a slum in Freetown recounted:

*I was starving. I am a welder, even now I can barely feed myself – I have no wife or children. But then, during the war, it was even worse. There was no work for me, and I saw the rebels (RUF) had food and guns. They could offer me safety, so I joined. I fought so I could live*¹⁵³.

Abdul, a former CDF fighter living in Bo also explained the reasons why he joined the fighting:

¹⁵⁰ TRC Broker (Civil society) interview, Freetown, December 5, 2016.

¹⁵¹ TRC Broker (Civil society) interview, Freetown, January 24, 2019.

¹⁵² For the full ex-combatant interview guide used for this research, please see Appendix C.

¹⁵³ RUF Ex-combatant interview, Freetown, May 21, 2018.

The government and the RUF were destroying the country, destroying the community. Nobody was fighting for the people – only the CDF. Injustice was everywhere. They raped my sister. I joined the CDF so that I could protect my family, and my community. To save the country from them who were eating it¹⁵⁴.

Michael, living in Makeni, recounts an altogether different, though also common entry into combatant ranks:

I was forced to join the RUF. I was not a child, but still I had no choice. They came and stabbed my daughter, and they told me either I join or they would take my son. I had no choice. They took me from my family¹⁵⁵.

The pervasive use of this open opportunity in interviews, by ex-combatant respondents, to express the motivations and reasons that transformed them into combatants evidences the degree to which motivations are indispensable to the wider ambitions of truth, memory and understanding. Jonathon, a former RUF fighter, was adamant in describing his conflict participation and the motivations for why:

I am from here (Makeni). This is my home, it's where I have lived most of my life. Not in the bush, but here in Makeni. One day, the soldiers came and they saw my brother. My brother was a big man, everyone listened to him and he made people laugh. The soldiers told him to carry their supplies for them. My brother said no, he would not do their job for them. The soldier men were angry, at the disrespect my brother gave them, and made an example of him on the street. They took him and put him inside tires they collected. We screamed, and begged for them to stop. They put him in the tires and set it on fire. They laughed and told us that this was the price of his disrespect. That is when I joined the war. I went to the rebels (RUF), they were easy to find, and I said I needed justice for my brother, and they told me that if I joined them that we would bring justice to the country. This is why I fought. When the TRC came, I heard they came to reconcile us. They talked to the victims to hear their stories, but the fighters – they only wanted to know what we did, and make us ask forgiveness. They didn't ask why I fought, what my story was. I fought for justice, I experienced injustice: why should I be sorry?¹⁵⁶

Dimitrijevic (2006) advances the need to uncover perpetrator motivations in truth commissions as linked to their broader justice

¹⁵⁴ CDF Ex-combatant interview, Bo, September 29, 2017.

¹⁵⁵ RUF Ex-combatant interview, Makeni, August 20, 2018.

¹⁵⁶ RUF Ex-combatant interview, Makeni, February 2, 2018.

foundations. He argues for reframing the “foundational justification” (p. 368) of truth commissions, towards emphasising “the lost sense of justice in the community of perpetrators” (p. 369). By placing greater primacy on uncovering perpetrator motivations and the sequencing of events that led to abuses, truth commissions stand to fulfil their aims of “reconstructing moral foundations of a proto-democratic polity” (Dimitrijevic, 2006, p. 373). The contribution to justice that truth commissions can make is therefore expanded in Dimitrijevic’s (2006) work, moving from the conventional short-sighted focus on justice for victims, to illuminating and addressing the root injustices experienced by ‘perpetrators’.

Binary Narrative Restraint

The second problematic narrative condition practiced in truth commissions’ model of participation, is that of binary narrative restraint, discussed in Chapter 4. The dichotomy of designated conflict identities, of victim and perpetrator, dominate the discourse and practice of truth commissions, and underpin this thesis’s critical investigation. Several studies criticise the structural application of simple, binary categories of conflict identities that truth commissions impose, which fail to accommodate the complexity of lived conflict experiences or distinguish between action and identity. Humphrey (2002) discusses the homogenisation of individual experiences “through dominant narratives about those events” (p. 116). Kilroy (2014) and Borer (2003) similarly warn of the dangers in transferring generalised group assessments to all individuals within that group. According to Nwogu (2010), truth commissions enforce archetypical participation by restraining voices in the truth-telling space which results “in the essentialising of victims and perpetrators” (p. 279). “Grand narratives” (Nwogu, 2010, p. 280) that paint a neat picture of the “epic battle between good and evil as personified by” (p. 279) victims and perpetrators are sought out, over “personal narratives” (p. 275) that grant agency and equality to participants in their contributions to the memory collection project of truth commissions. In her work examining experiences of participating in Sierra Leone’s TRC, Shaw

(2007) similarly recognises the problematic restrictive narrative space therein. She argues that participation in the TRC silenced participants in new ways, through the imposed model of “redemptive memory” (Shaw, 2007, p. 202) that demanded the externalisation of past trauma, which did not align with her own findings around “directed forgetting” (p. 195) practices in Sierra Leone.

This study finds that, in Sierra Leone, the essentialising (Nwogu, 2010) of conflict experiences into the binary identities of ‘perpetrators’ and ‘victims’ had one particularly significant deterrent effect on ex-combatant participation. As a result of the structural and homogenous application of the ‘perpetrator’ label, the majority of ex-combatants did not consider themselves to be the appropriate subject participants of the TRC. This stems from the absence of their self-identification as perpetrators. On the micro-level, within the ex-combatant community, this study finds that ex-combatants, universally, did not self-identify as perpetrators in the context of the war, and thereby did not consider themselves appropriate ‘perpetrator’ participants within the restrained ‘grand narrative’ (Nwogu, 2010) space for their participation within the TRC.

The fact that ex-combatants do not consider themselves to fall within the definition of appropriate perpetrator participants in the TRC informs us not only of their self-perceptions and the competing moral systems that they hold, but also sheds light on the definition of perpetrators according to this population. According to ex-combatant respondents, perpetrators in the context of the civil war, and in relation to the TRC, referred to the higher commanders and warring faction leaders as well as international intervention forces that drove the war.

In Sierra Leone’s TRC, it is clear that the participation sought by the TRC was that of ideal-type perpetrators, defined by external transitional justice experts with little to no actual consideration of the complexity of combatant conflict experiences and the issue of self-identification. In an interview, Nicholas highlighted:

I am not a perpetrator; I was a fighter. I did not commit any crimes that would make it okay to call me a perpetrator. I

*followed orders and I fought to help my country. There was no place for me in the TRC – they wanted us (the ex-combatants) to say we were criminals, that we were sorry. For what? I did what I was told, what I had to do, but the TRC was not interested in that*¹⁵⁷.

Ex-combatants from every warring faction share the view that they fell outside the definition of the perpetrator participant category for engagement in the TRC, as participants in its statement taking and hearings activities. Interviewed ex-combatants universally did not consider themselves to be the appropriate subjects of the simple and archetypal perpetrator identity category constructed by the TRC, and within which their participation was constrained to fit. Through analysis of ex-combatant interviews, a key group identity theme for each of the three major armed groups that participated in Sierra Leone's civil war is uncovered, underpinning their failure to self-identify as appropriate perpetrator participants before the TRC. Each of these themes links back to Chapter 4's discussion on the morality of violence. As discussed below, among (former) members of the military (SLA), participation in violence was justified as a result of winning the war, while members of the CDF/Kamajors reject their standing as appropriate perpetrator subjects before the TRC due to the moral grounds for which they fought. Lastly, rebel RUF respondents attribute a degree of morality to their own perpetrated abuses due to their own experiences of victimisation, and/or by blaming their command structures.

The Victor, The Hero and the Victim

The Military (SLA): The Victors

(Former) SLA members widely consider themselves to have “won the war”¹⁵⁸, and as the “victors”¹⁵⁹ therefore fell outside the population of possible perpetrators. For the SLA, the population of perpetrators, referred to those who had participated in atrocities, and generally (former) military ex-combatants agree that even low-level ex-combatants appropriately belong to this category. The unifying trait for

¹⁵⁷ SLA ex-combatant interview, Freetown, June 1 2018.

¹⁵⁸ SLA ex-combatant interviews in Freetown in 2017 and 2018.

¹⁵⁹ Ibid.

perpetrators then is their status as “losers of the war”¹⁶⁰, revealing a widespread understanding of the ends as justifying the means, and that the legitimacy of these ‘means’ is determined by the winners. This evidences a type of victor’s justice logic, applied to the definition of wrongdoing, and perpetrators. In an interview with Adam, a senior member of the SLA who joined the military in 2003 (and therefore did not fight in the war), he shared that “history has shown us many times that winners don’t say sorry”¹⁶¹. This sentiment, of not belonging to the body of appropriate (perpetrator) TRC participants, is further reinforced by many (ex)military respondents who state that they were explicitly instructed “not to speak to the TRC”¹⁶². While a small number of interviewed military ex-combatants disagree (8 of 32 interviewed), stating that they were told by commanding officers and TRC officials that they could come forward and participate in the Commission, the majority of military ex-combatants (24 of 32 interviewed) believe that their participation in the TRC would have constituted a direct breach of military protocol and a violation of their military code of conduct. The sentiment that participating in the TRC amounted to a military infraction, and the reported origin of this opinion as an explicit directive received from commanding officers, is further indication of the politicisation of the TRC in Sierra Leone. As the victors of the war, while on paper they belonged to the larger perpetrator grouping, in practice the SLA did not. The TRC supported targeted outreach activities to promote military participation in the TRC and “address the low level of statements given” (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 167) by members of Sierra Leone’s Armed Forces (SLA). However, despite these efforts “the number of statements given by members of the military remained low” (TRC Final Report, 2004, Vol. 1, Ch. 5, p. 167). Interview data from this study points to a wider military culture of non-participation stemming from both the view that, as victors of the war, members of the SLA did not meet the appropriate definitional

¹⁶⁰ SLA ex-combatant interview, Freetown, June 1, 2018.

¹⁶¹ SLA ex-combatant interview, Freetown, November 4, 2017.

¹⁶² SLA interviews, in Freetown, 2017-2018.

requirements of archetypal perpetrators within the TRC, as well as explicit directives against participation from within the military.

CDF: The Heroes

Among members of the CDF/Kamajor ex-combatant group, the view is widely held that the perpetrator label did not refer to them, as they considered themselves, and were largely regarded as, “the people’s army”¹⁶³. The widely held self-perception of being the “heroes of the war”¹⁶⁴, is generally put forward in interviews to explain non-participation among this warring group. Patrick, who joined the Kamajors early in the war and remained an active with the Kamajors and CDF for nine years explained:

*I fought for my country. The Kamajors are not like the others, we were bullet-proof, and protected from harm because we were fighting for the people. We were not the perpetrators in the war, we fought to save the people. Ask anyone and they will tell you. I am not a perpetrator; I don’t need forgiveness*¹⁶⁵.

RUF: The Victims

Lastly, prevalent among members of the RUF ex-combatant community is the view that they did not belong to the ‘perpetrator’ category of TRC participants because they were simply “following orders”¹⁶⁶, and that the label perpetrator was best suited for commanders and higher-level individuals who “gave the orders”¹⁶⁷ and “caused the war and its atrocities”¹⁶⁸. The view among ex-combatants that notions of guilt and responsibility inherently associated with the label ‘perpetrators’ were inappropriately placed on them points to the larger issue of self-identity, held across ex-combatants from all warring factions. Universally, ex-combatants do not self-identify as perpetrators, as highlighted here. Significantly, this self-identification emanates from an absence of both associated responsibility and guilt, which are inextricably linked to definitions of ‘perpetrators’. Interviews

¹⁶³ CDF ex-combatant interviews in Bo, throughout 2017-2019.

¹⁶⁴ Ibid.

¹⁶⁵ CDF ex-combatant interview, Bo, September 29, 2017.

¹⁶⁶ RUF ex-combatant interviews between 2017 and 2019.

¹⁶⁷ Ibid.

¹⁶⁸ RUF Ex-combatant interview, Makeni, August 20, 2018.

reveal that ex-combatants widely distinguish the identity of being a perpetrator from the experience of perpetrating abuses, as discussed in Chapter 4.

The pervasive separation of both responsibility and guilt from respondents' self-perceptions of participation in wartime atrocities is significant. While the removal of responsibility from the self is unsurprising, the associated finding of an absence of guilt associated with conflict participation is less expected. Ex-combatants, who are generally very forthcoming in recounting their wartime experiences, including abuses they participated in, do not frame their experiences in the rubric of regret or remorse. Rather they share these experiences fairly matter-of-factly, and often explain the strategic value around these acts. However, this is not an exercise in cognitive dissonance regarding understandings of the morality of such wartime abuses. The broader context of the war, as not only an enabling environment for abuses, but one that in fact necessitated their perpetration, is generally framed in negative terms:

*The time of the war was very bad. The war brought killing, looting, amputations and rape. So many lost everything, their homes and farms were burned, they might as well have died*¹⁶⁹.

The same respondents who express a deep repugnance for such abuses recount their own participation therein, and are simultaneously able to exogenously place blame and responsibility for such atrocities on higher command and environmental factors. This evidences the existence of simultaneously competing but co-existing moral systems that engender a lack of both responsibility and guilt among the self-perceptions of ex-combatants.

Among RUF ex-combatants the sentiment that they did not belong to the appropriate definition of 'perpetrators' as a result of following orders has links to the ultimate narrative of the war and the role played by different actors produced by the TRC, as well as the SCSL. In both

¹⁶⁹ CDF ex-combatant interview, Bo, March 12, 2017.

cases, the role of the RUF as responsible for a vast majority of abuses has contributed to the widespread portrayal of this group as the “worst offenders of the war”¹⁷⁰. This makes associations to the RUF undesirable, as it means an association with the “worst monsters of the war”¹⁷¹. Bernath (2016) draws attention to the possibility of expanding recognition of victim to include ‘complex political victims’ as a means for ex-combatants to shed or distance themselves from their former armed group identity. She demonstrates that, for some, in Cambodia, acknowledgement of complex victimhood held value for its signalling power to others that they were no longer members of an armed group. According to Bernath (2016), complex victimhood can therefore help to dismantle the politics of guilt and blame by allowing ex-combatants to shed their wartime armed group identities. Yet the case of Sierra Leone demonstrates a different process of ex-combatant distancing in order to remove associations of guilt and responsibility from their wartime participation. In Sierra Leone, ex-combatant respondents achieve this distancing from notions of guilt and responsibility attached to the ‘perpetrator’ category, not by distancing themselves from their RUF pasts, but rather by distancing themselves from their actions, portraying themselves as “victims of (their) orders”¹⁷². This disassociation, through ‘victimisation’ rather than denouncement of wartime affiliation, is also evidence of the persistence, salience and relevance of conflict-generated (social) networks. Wartime networks and affiliations continue to dictate political allegiances and ex-combatants report ongoing loyalties to their former comrades and commanders.

Overall, ex-combatants from all fighting factions disagree with the essentialising term ‘perpetrators’ and its blanket application, indicating a pervasive absence of self-perceptions of simple binary or archetypal perpetrator experiences. Noteworthy however, is the sentiment expressed by Thomas, a former RUF rebel, who spent years

¹⁷⁰ CDF ex-combatant Interviews, Bo, March 2017; SLA ex-combatant interviews, Freetown, October 2018.

¹⁷¹ Ibid.

¹⁷² RUF ex-combatant interviews, Makeni, August 2018.

imprisoned towards the end of the war, and who was grateful for the term perpetrator as applied by the TRC because it meant that “we are all the same, no one is worse or better than anyone else”¹⁷³ – to him, its use was a significant equaliser and helped to reconcile and situate his own conflict experiences within a larger and shared community of combatants.

As outlined in Chapter 2, primary respondent data for this study is limited to interviews with ex-combatants who did not participate in the TRC. However, in an effort to mitigate the impact this has on the representativeness of the sample generated, archival document analysis was undertaken on a random sample of public perpetrator statements collected from the TRC Archives. Firstly, it warrants reiterating that the statement-taking form for Sierra Leone’s TRC allowed for individuals to provide ‘composite’ or ‘complex’ statements (i.e. to fill in multiple statement sections, see Chapter 6). Archival document analysis reveals that the majority of perpetrator statements sampled were not purely perpetrator statements – individuals who submitted perpetrator statements overwhelmingly submitted ‘composite’ statements, filling in more than one statement-type (only two of 321 sampled statements were ‘purely’ perpetrator statements). This reinforces the finding that ex-combatant conflict experiences do not neatly conform to a binary narrative of simple perpetration.

Additionally, the experiences, and framing thereof, in perpetrator statements collected by the TRC is evidence of their complex war histories and the absence of self-perceptions of being perpetrators. Almost universally, the content of perpetrator statements recount (mostly successful) battles between the statement giver’s warring party and another. No explicit committed abuses are present and there is no language of regret, confession or forgiveness-seeking among these statements. For the question of ‘why did you commit these acts’ answers oscillate between “for my country”¹⁷⁴ and “I had no choice”¹⁷⁵.

¹⁷³ RUF ex-combatant interview, Bo, September 8, 2018.

¹⁷⁴ TRC archival statement data (159 statements).

¹⁷⁵ TRC archival statement data (184 statements).

Even though there are limitations to the statement-taking process (see below), they remain less constrained by social pressures to conform to particularised narrative categories than the narrative space enforced through the Commission's hearings. The perpetrator statement booklet was designed to capture accounts where individuals could confess or express wrongdoings and offer an explanation or express remorse, within a relatively private and even anonymised setting in some cases. Yet, the character of these statements still reflects the absence of self-perceptions of guilt and responsibility. Instead they exhibit a degree of necessity as underpinning these accounts, and in some cases even pride, for successful battles. This differs from the public hearings of the TRC, where ex-combatant perpetrator participants were goaded and coerced into conforming to the ideal perpetrator type (including expressing remorse and guilt), as highlighted by Kelsall (2005) in his account of his experiences observing the TRC's public hearings.

It must be noted that there is a margin for mistranslation and misrepresentation of statement-giver accounts in the structure of the TRC's statement collecting activities. TRC statements were manually recorded (written) in statement booklets by TRC statement-takers. This was a pragmatic measure to increase both the efficiency of the statement collecting process as well as in response to the high levels of illiteracy in the country, still present today, and particularly so in the immediate post-conflict environment. Eliminating the need for statement-givers to write their own statements increased the accessibility of the TRC's work, though invariably introduces a possibility for misinterpretation and misrepresentation of statement-giver views based on personal biases or the judgement of the statement-taker. While it can be argued that the possibility of such misrepresentation was addressed by the TRC requirement that every statement-giver approve their recorded (written) statement before signing it, this also evidences some margin for error. Statements were collected in the local language of statement-givers, and indeed statement-takers were recruited and dispatched based on their regional language skills. However, statements were recorded in English, meaning that obtaining final approval for a statement from a

statement-giver involved a dual translation process on the part of the statement-taker, whereby he/she firstly had to translate the statement-giver's account from their local language into English when recording this statement, and thereafter had to translate their written statement back to them, verbally, from English to their local language. The overwhelming uniformity of the character of perpetrator statements, despite being collected by different statement-takers across districts and regions, indicates this potential margin for misunderstanding was not sufficient enough to introduce a significant deviation between intended statements and produced ones.

Ultimately, the restrictive essentialising or homogenisation of ex-combatant experiences into a simple and archetypal perpetrator identity failed to recognise the significant complexities of their lived war experiences. As a result, the TRC suffered from widespread non-participation simply because a vast number did not feel that their experiences were accommodated in the narrative framework provided by the TRC. Even among analysed perpetrator participant statements, the conflict narratives recounted do not reflect archetypal 'pure evil' perpetrators, but rather highlight the complexity of lived conflict experiences among this heterogeneous community of conflict-affected individuals.

Victim Voice Elevation

Nwogu's (2010) third and final problematic narrative condition within the participatory model of truth commissions is that of victim voice privilege. It has previously been established that participation is the fulcrum of TRCs. Less recognised is the hierarchy of participation that such structures practice, through the traditional victim focus that they enforce. According to Nwogu (2010), "in an effort to acknowledge the pain and suffering of victims, truth commissions often elevate the community of victims over the community of perpetrators" (p. 283). This is contrary to the restorative justice aim "to integrate rather than alienate" (Nwogu, 2010, p. 281) as the elevation of one community over another is replicated rather than dissolved and creates new power asymmetries instead of dismantling old ones (Nwogu, 2010). This

structural exclusion, through primacy placed on victim participation, is particularly evident in Sierra Leone, where non-participation among ex-combatant interviewees is often cited to result from simply never being asked. Ex-combatants hold that they did not participate because “nobody asked”¹⁷⁶ and that if there had been direct and sincere engagement in the form of inclusion, this would have incentivised participation by cultivating a sense of relevance (and ownership) within the TRC among this community. Christopher relayed, “I would have talked if someone had asked me. They didn’t ask, so they didn’t care about me or us the ex-combatants. They didn’t ask, so they didn’t want us to talk”¹⁷⁷.

The elevation of victim participation and voice in truth commissions also manifests in interviews with former TRC statement takers (TRC implementers). One former statement-taker, when asked about the obligation to obtain statements from perpetrators, responded by saying “yes of course we tried, but we were limited. The perpetrators, many of them didn’t stay in these communities so we couldn’t find them. And the ones that were there, they didn’t want to talk to us. Besides, we had so little time to collect the statements, the priority was to talk with the victims and give them a chance to tell us what happened to them”¹⁷⁸. Another statement-taker respondent even went so far as to hold that the question of whether there was an obligation to corroborate victim testimony was offensive to the victims. She exclaimed “how can I tell a victim that in order to believe them I must confirm their story with their abuser? We didn’t need to talk to the perpetrators to know what happened, everyone in the community knew it”¹⁷⁹. While this latter response does not reflect the broader TRC mandate, or opinions generally held among TRC officials about the need to engage with ex-combatants directly, it does highlight the privilege that victim participation enjoyed within the TRC.

¹⁷⁶ ex-combatant interviews throughout Sierra Leone, between 2017 and 2019.

¹⁷⁷ CDF Ex-combatant interview, Bo, June 20, 2018.

¹⁷⁸ TRC official interview, Freetown, May 14, 2017.

¹⁷⁹ TRC Official interview, Makeni, March 2, 2017.

Nwogu's (2010) three-part argument explaining the structural narrative shortcomings in the current practice of truth commission participation usefully and thoroughly elucidates the structural sources of perpetrator exclusion within these bodies. However, the case of Sierra Leone reveals additionally external and voluntary sources of perpetrator exclusion among the ex-combatant community that contributed to their high non-participation in the TRC. These findings expand Nwogu's (2010) framework of perpetrator participation shortcomings in truth commissions. For TRCs, such shortcomings ultimately impede their restorative justice promises, and ability to achieve their mandates.

External Exclusion

Research for this thesis has identified two sources of external exclusion that further prevented ex-combatant participation within the TRC. Firstly, loyalties to conflict-generated combatant networks prevented participation among interviewed ex-combatants. At the heart of this external source of exclusion is the fear of betraying former command structures through participating in the TRC. This fear brings to the fore the question of punishment and the social costs of TRC participation. The second source of external exclusion identified within this research among interviewed ex-combatants is that of the timing of the TRC, which operated in an environment where participation directly competed with other, more pressing post-conflict needs. These sources of external exclusion, together with the voluntary source of exclusion (non-participation as protest) discussed below, evidenced in Sierra Leone, empirically expand Nwogu's (2010) framework of the participatory shortcomings of truth commissions, in relation to the ex-combatant perpetrator population.

Conflict Network Loyalties

The issue of conflict generated network loyalties brings to the fore once again earlier discussions on fear. Ex-combatants did not fear prosecution before SCSL as a result of TRC participation, debunking the claim that such fears prevented TRC participation. But this does

not mean that fear did not play a role in the calculus for non-participation. Network loyalties showcase another form of fear that served to deter participation: the fear of being perceived to betray these networks. Conflict networks do not evaporate when war ends; they endure. Fear of the social costs of participation showcases the fact that punishment does not have to be prosecutorial to be impactful; informal punishment also influences behaviour. Freeman (2006) alludes to the wider range of 'effects' that truth commissions can impart, in describing the "social and political effect of a truth commission" (p. 71). His work (Freeman, 2006) does not treat the concept of a nuanced understanding of punishment specifically, however the notion that punishment too can take social (or other) forms is empirically evidenced in this research and naturally extends the application of a layered understanding of the effects of truth commissions, along the dimension of punishment. It must be noted that due to the exclusive focus on non-participant ex-combatants within the primary data collection strategy of this thesis (see Chapter 2), this study's discussion on punishment in the TRC cannot speak to the possible experiences of punishment and its forms among ex-combatants who did participate in the TRC. As such, this discussion foregrounds the concept of the fear of punishment and its function as a participation deterrent. It reveals that fear of punishment along non-prosecutorial lines (i.e. the feared social costs of participation) warrants a more detailed understanding of the relationship between punishment and truth commissions. This is elaborated in Chapter 11, in this thesis's recommendations for future research.

As introduced above, another observed deterrent to ex-combatant participation in the TRC is persistent loyalty to former comrades and commanders. Such loyalty constitutes an external source of TRC exclusion among the ex-combatant population in Sierra Leone. While the persistence of reported loyalties to conflict-generated networks today is noteworthy, given the significant time lapse, high ex-combatant mobility and poor national communications infrastructure in Sierra Leone, its salience at the time of the TRC, immediately after the war, is unsurprising. According to one civil society respondent (TRC

broker), the fragility of the immediate post-war environment and widespread sentiments around the uncertainty of peace and its promises meant that, for most ex-combatants, their conflict-generated networks were the “only source of stability and authority”¹⁸⁰ in a new and fragile world. This increased ex-combatant reliance on their conflict networks and command structures as a primary source of information and legitimacy for navigating the post-conflict landscape, even for those who were forcibly recruited. The stigma of being an ex-combatant and fears of revenge or reprisals from victimised individuals or communities further pushed ex-combatants towards their conflict networks in an effort to insulate themselves, seek support and avoid stigma. To be fair, an important purpose of the TRC was precisely to contribute to dismantling fear-based conflict networks and to build bridging social capital through reconciliation; however, as discussed previously, the blanket application of the term ‘perpetrator’, the priority placed on victim experiences and the lack of voice or agency given to the ex-combatant community, only served to contribute to their exclusion from any meaningful social repair, and advanced stigma associations against them. The promised gains of peace were uncertain, while conflict networks offered a proven route to acceptance, safety and survival. Loyalties to these networks were already strong as a result of the cohesion generated by the war, and took on a new dimension when faced with the “new world”¹⁸¹ that peace created, full of hope but also insecurity and fear for ex-combatants, due to their wartime participation. Conflict network loyalties prevented ex-combatant participation in the TRC in two ways: non-participation because they were explicitly told by members of these networks not to participate, and non-participation for fear that this may have negative consequences for other members of their conflict networks, notably their commanding officers and leaders. Even the ex-combatants that said that they would have participated in the TRC were it not for other

¹⁸⁰ TRC Broker (Civil society) interview, Bo, March 15, 2017.

¹⁸¹ TRC Broker (Civil society) interview, Freetown, January 24, 2019.

deterrents, widely hold that they would “never have named anyone”¹⁸², seeing this as an unacceptable betrayal, and further evidencing the strength of loyalties and salience of conflict networks in the immediate post-conflict period, as well as their persistence today.

Timing and Needs

Another external deterrent to participation by ex-combatants in Sierra Leone’s TRC were the existence of other more pressing post-conflict needs and priorities that diminished the relevance and value of the TRC to this population. In line with findings by authors such as Vinck and Pham (2008) who highlight that “basic survival needs and security are necessary precursors to the successful operation of transitional justice” (p. 398), this study lends empirical support to the importance of both the sequencing and timing of transitional justice. The issue of sequencing in relation to concurrently operating processes such as DDR and the SCSL has already been elaborated in Chapter 7. Regarding timing, it is widely reported by ex-combatants that during the time of the TRC’s operations they were too busy trying to find family members, (re)build their homes and livelihood sources, find employment, or in the case of several, “living in the bush – waiting to see if peace would last”¹⁸³. The TRC, as a process that required people’s time to participate, was therefore directly competing with other, more pressing post-conflict needs that similarly required time to address. Unsurprisingly, the concrete nature of these post-conflict needs, as compared to the uncertain and prescriptive character of the TRC and its purported benefits, invariably led to the prioritisation of survival and security concerns. Additionally, this feeds into the discussion on local understandings of justice from Chapter 7, highlighted in work by authors such as Macdonald (2013). The existence of more pressing survival and security needs at the time of the TRC’s operations, and the socio-economic character of ex-

¹⁸² Ex-combatant interviews throughout Sierra Leone, between 2017 and 2019.

¹⁸³ Ex-combatant interviews in Bo and Makeni, between 2017 and 2018.

combatant understandings of justice highlight that the TRC was competing with other more pressing post-conflict concerns.

Voluntary Exclusion: non-participation as protest

Lastly, a number of ex-combatants cite their dissatisfaction with other peace-making and peacebuilding interventions as contributing to not only their non-participation in the TRC, but their broader rejection of the Commission more largely. Cornwall (2008) distinguishes between structural and voluntary exclusion in her critique of participatory programming. She argues that understanding exclusion requires addressing the question of not only who is excluded but who excludes themselves (Cornwall, 2008). Nwogu (2010) alludes to the role of voluntary exclusion as a participatory inhibitor for perpetrators in truth commissions by positing that “often perpetrators respond to the hostile space of truth commissions with silence or denial” (p. 282). In Sierra Leone, this study finds support for the argument of voluntary exclusion, and the use of non-participation as protest, among ex-combatants in relation to the TRC. Among ex-combatant respondents who participated in the DDR programme in Sierra Leone, those with negative experiences therein express a disillusionment with the intentions and legitimacy of the TRC, as a result of the broken promises of DDR. Non-participation in the TRC for this group is seen as a form of protest against the inadequacies of the peacebuilding landscape in Sierra Leone that did not consult with, or deliver for, these ex-combatants in meaningful ways.

Conclusion

These structural problems in truth commission memory collection and narrative production do not operate in isolation. Rather they interact with and reinforce holistic structural and voluntary perpetrator exclusion. The elevation of victim voices restricts the potential to unveil the complexity of perpetrator experiences by “centring victims’ experiences as the starting point for truth reclamation” (Nwogu, 2010, p. 280). By Inverting power asymmetries (to advantage victims) and prioritising the reclamation of victim dignity at the cost of perpetrator agency and humanity, a truth commission “not only fails to attain an

achievable goal, it also potentially serves as a weapon of oppression” (Nwogu, 2010, p. 282).

According to Nwogu (2010), “the key distinction between restorative and retributive justice mechanisms lies in their treatment of the perpetrator” (p. 284). The logic of assumed perpetrator participation in truth commissions assumes that the absence of legal punitive punishment sufficiently incentivises perpetrator participation (see Chapters 4 and 7). TRC advocates rely on this logic to advance the claim of high cross-cutting participation within these bodies. But this absence is not a magic perpetrator participation wand (Cornwall, 2008) – it does not mystically grant them standing or equality within the participatory structure of these commissions. Despite the absence of legal punitive measures (prosecution) for perpetrators who participate within these bodies, they are nonetheless disadvantaged in the narrative and participatory conditions applied by truth commissions. Unlike retributive justice processes, truth commissions offer no presumption of innocence – the perpetrator label is cast from the onset. Ex-combatants walk into truth commissions as perpetrators, and leave the same way. There is also no evidentiary burden in truth commissions, and contrary to truth commission advocacy, the absence of prosecution does not remove the absence of judgement (or punishment). Judgement as the possibility of prosecution exists in retributive measures such as trials. Within truth commissions, this judgement takes the form of social costs and stigma, as conflict experiences become entrenched into identities that alienate rather than integrate.

The structural framework of truth-telling in truth commissions is not merely an exercise of narrative consolidation, but much more significantly, one of narrative production. Whose memories are collected, whose experiences are privileged, how, and by whom, significantly determines the ultimate narrative of conflict that is constructed and put into the official annals of history. This impact is not only retrospective (determining how, and whose, history is written) but has significant forward-reaching potential as well. The TRC’s Final

Report (2004) recommendations were produced on the basis of the narratives of war it collected during its investigative, statement and hearings activities. These recommendations are (still) widely held as Sierra Leone's "roadmap for post-conflict development"¹⁸⁴. Privileging victim voices and experiences has not only placed this category of conflict-affected people at the forefront of these recommendations, but equally served to exclude ex-combatants from the post-conflict development agenda. A civil society respondent (TRC broker) emphasised that the "lack of ex-combatant participation not only excluded them from the TRC process and its explicit 'ambitions' but also effectively marginalised them from having a voice in the TRC recommendations. No ex-combatant needs are addressed in the recommendations. The TRC, together with the DDR process, essentially helped to create not only a class of unemployed citizens (ex-combatants) but unemployable citizens. The TRC did not generate social capital, and DDR did not effectively generate skills"¹⁸⁵. Another interview highlighted that the failure of the TRC to grant agency to the ex-combatant community has "effectively excluded them from not only participating within the wider reconciliation aims of the institution, limiting its ability to fulfil its mandate, but also has served to exclude them from the country's broader development agenda"¹⁸⁶. This has wider-reaching effects on the population of ex-combatants, that continues to be stigmatised and viewed as a cause of the country's persistent weaknesses, rather than as a symptom of their continuation. This sentiment is further echoed by a respondent in Sierra Leone's justice sector in his reminder that "justice, and transitional justice, is undeniably a political enterprise, shaped and also limited by the agendas of those who enforce it"¹⁸⁷. The significance of participation, and particularly, exclusion from participation, has wide-reaching ramifications, informing us of the structural shortcomings and potential dangers within truth commissions. Chapters 6 and 7 of this thesis have

¹⁸⁴ 6 TRC Broker Interviews in Freetown between November and December 2016; 5 TRC Broker interviews throughout 2017.

¹⁸⁵ TRC Broker (Civil society) interview, Freetown, April 15, 2018.

¹⁸⁶ TRC Broker (Civil society) interview, Freetown, March 9, 2017.

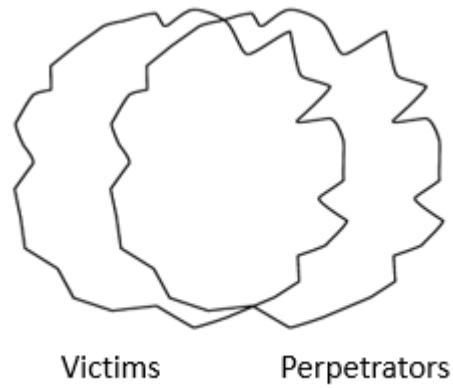
¹⁸⁷ TRC Broker (civil society) interview, Freetown, January 19, 2019.

empirically analysed the legitimate subject position of ex-combatants within Sierra Leone's TRC, as well as their expectations towards this mechanism of transitional justice. Together, these chapters treat the dimension of TRC expectations in relation to the ex-combatant population. Chapters 8 and 9 have addressed the dimension of TRC experiences. Chapter 8 has presented an institutional level analysis of engagement along the lines of ownership and inclusion, while this chapter, Chapter 9, has interrogated TRC non-participation among ex-combatants.

The subject of suffering and its significance within this thesis requires specific attention. The importance of suffering as part of the problematic binary identity framework in transitional justice has first been discussed in Chapter 4. In uncovering and describing ex-combatant expectations towards the TRC, Chapter 7 has highlighted the complexity of ex-combatant conflict experiences, on the micro-level. This chapter has revealed that lived experiences of suffering among this population similarly and significantly determined non-participant ex-combatant experiences of the TRC. The ubiquitous character of suffering, as a shared common denominator of individual war-time experiences, on the micro-level, emerges strongly throughout the research for this thesis and merits revisiting Borer's visual representation of individual conflict experiences, presented in Figure 1 of Chapter 4. Across the normative, institutional and local levels of transitional justice, Borer has aptly highlighted the reality of messy and intersecting conflict experiences, between 'victims' and 'perpetrators'. However, the empirical evidence from Sierra Leone gathered in this thesis reveals a need to further nuance Borer's visual representation of intersecting conflict experiences. Building empirically from the complex conflict narratives of ex-combatants interviewed for this thesis, one persistent limitation of Borer's visualisation of conflict experiences is that it fails to reflect the degree of overlap between experiences of suffering (victimhood) as retold and foregrounded by ex-combatants in this research. In expanding and reconceptualising Borer's visualisation of intersecting conflict experiences, this thesis presents the following visualisation, Figure 5, to better capture the

degree of overlap between victimhood and committing abuse, along the intersecting space of suffering:

Figure 5:



The final empirical chapter of this thesis, Chapter 10, addresses this thesis's final dimension of inquiry: the question of impact. In particular, it empirically examines the impact of ex-combatant non-participation on questions of truth commission success, how this can and should be measured, and the implications for ex-combatants' post-conflict trajectories.

IMPACT

Chapter 10

The Impact of the TRC on Ex-Combatants: *localising TRC evaluation and redefining success*

For me the TRC was a failure. It should have come to listen to us and to help us. But we are only blamed. People see our actions as evil but they don't know our stories, and how we suffered too. For now there is peace in Salone, and for that the TRC did a good job. But the troubles, they continue, and I do not feel at peace¹⁸⁸.

Introduction

This chapter empirically applies the localised framework for evaluating TRC impact constructed in Chapter 5. Application of this framework onto the ex-combatant population in Sierra Leone disaggregates this evaluation to one constituent element of the local within Sierra Leone. While it therefore nuances impact evaluation in the context of TRCs, it does not speak for the broader domain of the local in Sierra Leone, which, as highlighted in Chapter 1, is composed of a complex set of actors and levels. Previous chapters have illuminated local expectations and experiences of Sierra Leone's TRC, through the lens of (predominantly non-participant) ex-combatants, a population whose role and relevance within TRCs has historically been neglected by research and practice. Ex-combatant expectations of the TRC reveal a significant mismatch between the mandate promises of the TRC, and actual ex-combatant expectations towards this justice process. Experiences of the TRC similarly expose the myth of TRC inclusivity and highlight the reality of ex-combatants' multi-dimensional exclusion. Together, such a grounded understanding of ex-combatant expectations and experiences, presents an opportunity to reconceptualise impact in relation to transitional justice by foregrounding the affected populations these processes address directly. This provides a more meaningful and contextually relevant avenue for understanding transitional justice impact on the micro-level. This chapter's analysis of TRC impact in relation to non-participant ex-

¹⁸⁸ RUF ex-combatant interview, Makeni, August 23, 2018.

combatants specifically enables an interrogation of the broader claims that truth commissions exercise effects on conflict-affected populations beyond merely the individuals that participate directly therein.

The utility of localising impact evaluations of transitional justice has been established in Chapter 5. What then was the impact of the TRC on non-participant ex-combatants in Sierra Leone? This chapter applies the framework constructed in Chapter 5 to the experienced impacts of the TRC on the non-participant ex-combatant community in Sierra Leone, and evaluates its success on this disaggregated level. This framework localises impact through the evaluation of local expectations held towards the TRC (against its experienced outcomes among ex-combatants), the particular outcome of truth-telling, the TRC's mandate (in particular the mandated goal of reconciliation), its institutional engagement, TRC recommendations (in particular its reparations framework), and lastly through an empirical assessment of the TRC's impact on constructing and cementing restrictive conflict identities.

Expectations and the TRC

As argued in Chapter 5, local expectations are a critical component of this study's localised impact evaluation framework. Unearthing the broader justice needs and particular justice expectations attached to a specific process, among locally affected populations uniquely informs us of both the legitimacy of a process, and the possibility of its success, from a localised perspective. When the design and outcomes of a justice process does not align with the associated and expected local justice needs it will, by nature, be unable to achieve 'success' by local standards.

Chapter 7 has already demonstrated the significant mismatch between ex-combatant expectations tied to the TRC in Sierra Leone and the Commission's institutional mandate. Chapter 7 details the anticipated institutional and actual ex-combatant expectations held towards the TRC in Sierra Leone. It has revealed that ex-combatants expected the TRC to provide a platform for truth-telling and expression, to provide

material reintegration and development benefits, and to contribute to justice and accountability throughout the country. The specific expectations around expression, the provision of material benefits, localised conceptualisations of justice and coordination between the TRC and the SCSL all deviate significantly from the mandated objectives and limitations of the TRC.

At its core, ex-combatant expectations of the TRC reflect their immediate post-conflict (justice) needs and inform us of conceptualisations of justice on the micro-level. In expecting the TRC to provide an opportunity to acknowledge the motivations behind their wartime participation and to generate an understanding of their conflict experiences (through their contextualised narratives), ex-combatants hoped to situate their experiences within the universe of larger grievances and injustices, and to expose the root causes of the war. Sulay was initiated into the Kamajors in 1998. According to him:

Corruption has eaten our country. This is why there was war. Let them know that this why we (the Kamajors) fought – to protect our families and communities, to save them from the greedy rebels and soldiers. They looted the country and killed recklessly, and we suffered. We had to fight to bring justice¹⁸⁹.

The narrow truth that the TRC sought to expose did not allot a space for this, and thereby withheld a potentially powerful “democratising truth” (Nwogu, 2010, p. 288). They hoped for an opportunity to express the injustices that led to their wartime participation, while the reality of the TRC only extended to an understanding of justice as one of narrating the abuses of war, rather than seeking to understand them. Tejan was a member of the RUF for 3 years, and was forcibly recruited together with his older brother when he was 15 years old. He shared that, “if the TRC had come to me I would have told them that I had no choice – it was fight or die. They blame us but nobody from the TRC came to talk to us. They didn’t care that I suffered”¹⁹⁰. The socio-economic foundations of ex-combatant justice needs in the aftermath of the war are revealed by their expectations that the TRC would

¹⁸⁹ CDF/Kamajor interview, Freetown, November 15, 2018.

¹⁹⁰ RUF ex-combatant interview, Makeni, October 27, 2018.

provide material benefits, through reintegration and development assistance. Lahai emphasised that, “the TRC came to give us livelihoods after the war”¹⁹¹. Francis also expected the TRC to provide “training, jobs and education”¹⁹². Similarly, Hassan expected the TRC to provide these material benefits “to end the poverty and grabbing (corruption) that brought the war”¹⁹³ in the first place. Lastly, in understanding and expecting the TRC to collaborate with the Court, the desire for retributive measures of justice is demonstrated. In contrast to the common assertion that ex-combatants were fearful of the TRC due to perceptions of collusion between this institution and the Court, this thesis shows that ex-combatants largely did not in fact find this perceived collaboration threatening. In fact, several respondents echoed the sentiment expressed by Charlie (a former CDF fighter), that “the TRC was not separate from the Court – it helped the Court bring justice to those most responsible for the war in the country”¹⁹⁴. This “mismatch” (Skaar, 2018, p. 417) underscores variance in local conceptualisations of justice, which had strong socio-economic and retributive roots within this population. The justice expectations held by ex-combatants towards the TRC largely do not reflect the Commission’s mandate. The TRC therefore fails in respect to meeting the justice expectations held by the local population of its intended participants. Indeed, how can we claim success for a justice process whose outcomes did not reflect the justice needs of those it aimed to generate a benefit for? In fact, the mismatch between ex-combatant expectations and TRC objectives significantly deterred their participation within the TRC at all, further limiting the reach, impact and therefore possibilities for success for this institution. Vincent fought with the Kamajors for almost two years. He gave the following explanation for his non-participation in the TRC:

The TRC should have come to give us aid...to help us talk about why we had to fight...so that the civilians could understand us. But no one ever came to talk to me. then my

¹⁹¹ RUF/AFRC Ex-combatant Interview, Freetown, February 21, 2017.

¹⁹² Kamajors/CDF ex-combatant interview, Bo, January 15, 2018.

¹⁹³ RUF ex-combatant interview, Makeni, October 27, 2018.

¹⁹⁴ CDF ex-combatant interview, Bo, March 13, 2017.

*brothers (other Kamajors) told me that we should stay away from the TRC because it was trying to trick us – it was here to blame us and punish us for doing our duty*¹⁹⁵.

Outcomes and the TRC

Chapter 5 has demonstrated that, despite inconsistent results, measuring transitional justice impact through universally constituted outcomes remains the most common approach to evaluations of transitional justice (Ainley, 2015). Outcomes, by virtue of their dominance within transitional justice impact research, are therefore incorporated as another dimension of this localised framework of TRC impact evaluation. In particular, the central truth commission outcome of truth-telling is assessed within this framework.

Truth-telling

The critical role that truth-telling plays in truth commissions is widely established¹⁹⁶. “Revealing, documenting and recording the ‘truth’ are critical objectives of truth commissions (Skaar, 2018, p. 406), and they are commonly assessed on the provision of this truth (Ainley, 2015). According to Skaar (2018) “truth telling or seeking is achieved principally through truth commissions” (Skaar, 2018, p. 409). These bodies are “well placed to identify and address the root causes of war” (Ainley, 2015, p. 245), mandated to uncover and understand the violent past (Nwogu, 2010), and are “better able to examine the structural and ideological features of conflict and the contributions of collective actors” than criminal courts (Ainley, 2015, p. 245). According to Skaar (2018), truth-telling is held to positively influence peace by addressing past grievances, addressing causes of violence, promoting non-violent ways of dealing with social conflict, and creating an authoritative historical record that prevents the manipulation of history. The TRC in Sierra Leone is particularly commended for its extremely detailed report (Ainley, Friedman and Mahony, 2015). However, as highlighted in Chapters 9 and 10, simply because a truth commission is theoretically well-placed to examine these features (causes and underlying motivations) of conflicts does not mean they will be able to

¹⁹⁵ CDF/Kamajor ex-combatant interview, Freetown, November 15, 2018.

¹⁹⁶ See Ainley (2015); Freeman (2016); Nwogu (2010); and Skaar (2018).

do so in practice (Ainley, 2015). The politicisation of the TRC by the government in Sierra Leone limited the scope of its truth-seeking, and generated dissatisfaction among ex-combatants that contributed to their non-participation in two ways. Firstly, the TRC's failure to access the underlying motivations that led ex-combatants to take up arms in the first place limited its focus to generating a superficial conflict narrative without understanding its root causes or motivations on the micro level. In describing his disappointment with the narrow space for ex-combatant participation in the TRC, Wesley, former RUF, recounted that, "the TRC gave the victims a place to talk about what they experienced. It should have been like this for us too. I also had to flee...I was also abused. I was also afraid"¹⁹⁷. Secondly, the primacy placed on victim participation and the absence of robust obligations for corroboration, led some to feel that the narrative, or 'truth', produced was not only incomplete (lacking depth), but inaccurate as well. Santos voluntarily joined the RUF in 1993 and remained with them until 1997 when a battle injury left him unable to continue fighting.

During the war I went everywhere...my unit even went to Liberia. I know everything that happened in the war...the TRC put the blame on us so easily, but it is only half the story – we (the RUF) have the other half, but that is missing from their records¹⁹⁸.

According to Skaar (2018), "however imperfect or contested the 'truth' brought to the table" truth commissions "have often succeeded in documenting" violations (p. 418). She claims that "late truth may well be partial or imperfect truth, but I am willing to argue that it is better than no truth at all" (Skaar, 2018, p. 419). This directly contradicts the Final Report (2004) of Sierra Leone's truth commission which asserts that "a 'partial' truth is no truth at all" (Vol. 1, Ch. 1, p. 32). The argument that partial outcomes still constitute a measure of success has practical merit as it implicitly recognises the very real and significant constraints under which truth commissions operate, including limited time, funds and political influence. It is nonetheless problematic as well – it assumes that the only alternative is 'no truth',

¹⁹⁷ RUF ex-combatant interview, Freetown, October 17, 2018.

¹⁹⁸ RUF ex-combatant interview, Makeni, August 23, 2018.

and does not consider the implications of whose truth is privileged, and the politics of memory, in the process. Accepting partial outcomes as evidence of success also risks muddying the already dark waters of defining success, and its boundaries, in transitional justice impact studies. By applying a localised framework evaluating the 'truth' produced by the TRC, through the lens of the ex-combatant community in Sierra Leone, this thesis reveals that the narrow truth sought by the TRC deterred ex-combatant participation, withheld a 'democratising' truth, and failed to provide the opportunity to cultivate understanding around their wartime experiences. It is therefore hard to argue in favour of the merits of a partial truth within a localised framework of measuring TRC success, through the particular outcome of truth, in Sierra Leone.

TRC Mandate in Sierra Leone

In theory, looking to mandates may provide an attractive alternative to larger societal goals that typify standardised and normatively constituted outcome evaluations. However, as established in Chapter 5, truth commissions, in their own mandates, often explicitly delineate such broader and hard to measure goals for themselves. This was particularly the case for Sierra Leone, wherein the TRC was mandated to "address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, get a clear picture of the past in order to facilitate genuine healing and reconciliation" (TRC Final Report, 2004, Vol. 1, Ch. 1, p. 24). Elsewhere the Final Report (2004) refers to the object of the TRC as to "create an impartial historical record", "to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered" (Vol. 1, Ch. 1, p. 31). Using the TRC's mandate as a framework for evaluating its success does not therefore offer a narrower or more concrete range of outcomes against which to measure impact. This localised approach to impact offers an alternative approach to the role of mandates in defining TRC success and impact. Rather than asking whether the TRC achieved its mandated aims, a localised evaluation framework asks whether the

TRC's mandate sufficiently reflected the justice needs of its local participant populations. This brings local expectations and justice needs vis-à-vis transitional justice to the centre. This foregrounds local expectations once again, which, as previously established, in Chapter 7, diverged significantly from the TRC's mandated objectives. In the case of Sierra Leone's TRC therefore, among the ex-combatant population, the TRC's mandate did not sufficiently reflect the justice needs of a constituent element of its local participants, thus necessarily limiting its ability to affect a positive impact on this group.

One of the TRC's mandated goals was to promote reconciliation. Perpetrators were integral to the achievement of this particular aim, with reconciliation on the micro and macro levels both requiring perpetrator participation (elaborated in Chapter 6). As such, specific attention to the outcome of reconciliation, within the TRC's mandate, warrants consideration. Skaar (2018) emphasises the overlap between outcomes as abstract universal standards and outcomes as prescribed and contained by truth commission mandates, in highlighting that reconciliation in particular is often an explicit aim in many truth commissions, though it remains very hard to define and measure. Additionally, recognition that reconciliation, as an outcome, ultimately must be voluntary and emanate from within and among communities (Bloomfield, 2003) on the micro and macro levels of the local, adds difficulty to its achievability as an aim, by an externally imposed TRC.

While the TRC in Sierra Leone was explicitly mandated to foster reconciliation, localising this outcome through the lens of non-participant ex-combatant experiences of the TRC, a population uniquely affected by this aim, further reveals micro-level impact failure of the TRC. Interviewed ex-combatants widely agree that the "TRC did nothing for"¹⁹⁹ them. However, interviewed ex-combatants also hold that reconciliation has largely occurred regardless, saying that they are "comfortable"²⁰⁰ in their communities, and do not fear retribution for

¹⁹⁹ Ex-combatant interviews throughout Sierra Leone, between 2017 and 2019.

²⁰⁰ Ibid.

their wartime actions. Ex-combatant interviews thus demonstrate that this population, while largely feeling “safe”²⁰¹ “integrated”²⁰² and “at home”²⁰³ in their post-war communities, do not attribute this to the work of the TRC. While this certainly cannot be taken as proof of the TRC’s impact failure (it is futile to attempt to argue in favour of an unfalsifiable counterfactual), it introduces the concept of perceived causality of impacts (elaborated more below).

Friedman (2017) argues that “reconciliation was inevitable” in Sierra Leone, and “‘the only way forward’ for future development and peace” (p. 111). According to her, the need for peace and development widely outweighed the desire for punitive forms of justice within Sierra Leone (Friedman, 2017). Her research reveals a strong endogenous appetite for reconciliation, as recognition of the need to live together again after war in order to achieve a transformative peace (Friedman, 2017). This thesis affirms and nuances this finding. Progress in reconciliation, among ex-combatants in Sierra Leone, is evident, though some important deficits are also noteworthy. While the majority of interviewed ex-combatants claim to feel “comfortable”²⁰⁴ and “reintegrated”²⁰⁵ within their communities, a small number of ex-combatant respondents also report a deterioration in reconciliation over time, and “wish the TRC had left a follow-up process to help us when people grew angrier and resentful towards me over time”²⁰⁶. Reconciliation has therefore not been a linear process for all, with some ex-combatants reporting that:

*Resentment in my community towards me has grown over time. Because there is no improvement, no development, their anger stays. At first, after the war, there was hope for a better future. I think this is what allowed me to be comfortable, people were willing to look past the past because the future held hope for all of us, and we needed each other. But now, the longer we all struggle, the angrier they are*²⁰⁷.

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ SLA ex-combatant interview, Makeni, September 18, 2017.

²⁰⁷ Ibid.

Reconciliation as linked to peace and development is therefore clear, validating findings from Friedman (2017). Its deterioration, for some interviewed ex-combatants, is equally tied to failure in progress along these dimensions.

Additionally, despite its mandate to facilitate reconciliation, the short timeframe of the TRC is widely held to have made reconciliation an impossible outcome of the TRC. One of its Commissioners held the view that it was in fact unrealistic to expect this from the TRC. “The TRC wasn’t set up to facilitate reconciliation. It didn’t have that long-term capacity. At best, it enabled moments of forgiveness, but it couldn’t generate the momentum and larger process needed for reconciliation to really take root”²⁰⁸.

Localising impact through the particular aim of reconciliation in Sierra Leone’s TRC, reveals that for the ex-combatant community, reconciliation has been neither linear nor perceived to have been facilitated by the TRC. Once again, impact failure is clear.

Institutional Engagement in Sierra Leone’s TRC

The need for localising transitional justice has steadily grown. The proliferation of truth commissions has emerged in response to increased criticisms against the top-down and externalised character of previous generations of transitional justice (see Chapter 3). Participatory programming literature relies on the need for meaningful local inclusion and ownership in externally engendered interventions for these to accrue local legitimacy, and subsequently, sustainability of outcomes (see for instance Cornwall, 2008; Donais, 2009; and Selim, 2017. This is elaborated in Chapter 5). In Sierra Leone, Ainley (2015) highlights the common position among critical scholarship, arguing “transitional justice there did not speak to local understandings of justice and reconciliation” (p. 249). This once more begs the question of whether a process can be considered successful if its aims

²⁰⁸ TRC Commissioner interview, April 27, 2018.

inherently diverge from the expectations held by the local populations it is designed to affect?

A localised evaluation of TRC impact along the dimension of institutional engagement has two components: engagement with civil society and engagement with ex-combatants specifically. Engagement with civil society is a necessary measure of institutional engagement as this segment of the local functions as both a conduit and filter for wider local populations, whose interests and needs civil society is supposed to represent (at least in theory – a broader discussion of this can be found in Chapter 1). As exposed in Chapter 8, despite initially high levels of local engagement with civil society, within the dimension of ownership, this significantly diminished over time and soured the relationship between the TRC and the TRC Working Group considerably. The failure to engage formatively with civil society along the dimension of institutional inclusion contributed to wider perceptions of the TRC as a “foreigner”²⁰⁹ in Sierra Leone. One member of the TRC Working Group emphasised that “for the TRC to mean something for people it had to engage with them; it had to go to them. We were there to make this possible, but they didn’t listen”²¹⁰. Increasingly prescriptive consultations, inadequate reach or localisation, and limited dissemination together fomented discontent between civil society and the TRC after its establishment. This engagement failure signals negative impact in relation to the TRC. However, Friedman (2017) argues that the TRC’s failure to be formatively inclusive of civil society nonetheless had a broader positive impact. Gaps left by the TRC, particularly along the lines of reach and culture, in fact galvanised the mobilisation of civil society and spurred the establishment of parallel reconciliation initiatives. Friedman’s (2017) argument draws attention to the complexity of conceptualising impact, highlighting the need for greater contextual and long-term perspectives when evaluating a particular process. Evidence around impact, in relation to institutional engagement with civil society, is therefore mixed. In the TRC’s direct

²⁰⁹ TRC Broker (Civil society) interview, Freetown, November 21, 2016.

²¹⁰ TRC Broker (Civil society) interview, Freetown, April 15, 2018.

institutional engagement with civil society, strong local ownership with this group of TRC brokers has been established (in Chapter 8); calls for the TRC originated within this population of actors. However, the establishment of the TRC brought with it a shrinking space and increasingly prescriptive role and voice for civil society, whose inclusion was not formative. Overall, direct institutional engagement with civil society is negative, and showcases a significant missed opportunity for cultivating local legitimacy, and with it, sustainable outcomes that may have promoted the creation of 'communities of practice' (Quick and Feldman, 2011) as part of the work and legacy of the TRC. However, if we take a further step back, and place civil society and the TRC within a larger temporal context, Friedman (2017) demonstrates that this institutional engagement failure in fact pushed civil society to galvanise and fill the 'void' left by the TRC. The indirect impact that resulted from the TRC's empty commitment to localism, was therefore a broader push for alternative grassroots reconciliation efforts.

Secondly, given this thesis's focus on the ex-combatant population in particular, institutional engagement between the TRC and this population specifically warrants summary. In the first instance, an absence of direct or formative institutional engagement with ex-combatants is significantly showcased in the mismatch between ex-combatant justice needs and expectations against the mandated justice objectives of the TRC itself. This mismatch, and its implications, between the rhetoric and ritual of the TRC, against the expectations held by ex-combatants, has been analysed in Chapter 7, and discussed under the dimension of expectations above. Secondly, as discussed in Chapter 9, ex-combatants faced multi-dimensional processes of exclusion within the TRC. Though they were explicitly identified and formally treated as part of the TRC's population of local participants, in practice, they nonetheless were the object of several sources of exclusion, which together deterred their participation. These sources of exclusion existed along three dimensions: structural exclusion, external exclusion, and voluntary exclusion. Structural sources of exclusion emanating from normatively derived institutional

participation constrictions prevented the TRC from accessing the motivations for abuses committed. External sources of exclusion took the form of persistent conflict network loyalties, and the accompanying fear of betraying others as a result of participation; and the timing of the TRC, which directly competed with other, more pressing immediate post-war needs among this population. Lastly, voluntary exclusion among ex-combatants has also been uncovered, with respondents reacting to the TRC with active silence, to express their discontent with failures in the larger post-conflict environment and peacebuilding processes (specifically DDR). Ralph recounted, “I didn’t help the TRC. I didn’t speak to the TRC. I didn’t attend the hearings, and I turned the radio off. After the war, it was supposed to be better, but no one helped me”²¹¹. Altogether these various sources of practical exclusion, within the participation element of the TRC’s institutional engagement framework, highlight the absence of both ex-combatant voice and agency within the Commission, and formed significant participation deterrents among this population. This demonstrates, once again, impact failure, as these practices of exclusion contributed to preventing ex-combatant participation, necessarily limiting the reach and depth of TRC local engagement.

TRC Recommendations

A localised evaluation of TRC recommendations takes on special significance in the case of ex-combatants in Sierra Leone. As previously demonstrated, ex-combatants hoped to gain material benefit from the TRC, through reintegration and development gains (treated in detail in Chapter 7). This expectation of material benefits from TRC participation is argued to exist more widely on the local level as well (Ainley, 2015; Evans, 2012; Shaw, 2007). The body of recommendations produced by the TRC formed arguably the most concrete avenue through which the TRC could facilitate such benefits. As highlighted in Chapter 6, reparations are a particularly significant component of TRC recommendations. Ainley (2015) emphasises this, by arguing that reparations were probably the most important aspect

²¹¹ CDF ex-combatant interview, Bo, September 30, 2017.

of transitional justice for most Sierra Leoneans. Durbach and Chappell (2014) argue that reparations hold transformative potential, but that this “transformative justice requires the realisation of three interlinked concepts – representation, (re)distribution and recognition” (p. 551). According to Williams and Opdam (2017) representation is achieved through “participation within the process itself, via active consultation in the design and implementation of reparative measures” (p. 1282). Chapter 8 has already shown significant shortcomings regarding ex-combatants along this dimension, of what Williams and Opdam (2017) refer to as “internal representation” (p. 1282). Achieving (re)distribution involves dismantling hierarchies that prevent societal equality. Once again, Chapters 4 and 9 have called attention to the problematic (re)production of power asymmetries that the restrictive binary model of participation within TRCs, and the primacy placed on victims engenders. Finally, recognition involves acknowledging, valuing and validating local experiences and agency (Williams and Opdam, 2017). Once again, the restrictive binary of victims and perpetrators has already been shown to limit the agency of ex-combatants within the TRC in Sierra Leone. Additionally, the TRC’s failure to investigate the motivations behind acts of violence limited the space for participation among this population within the local. However, Chapter 6 has also highlighted that, at least formally, the TRC did not completely exclude ex-combatants from eligibility for reparations, indicating that some space for recognition within reparations may have been possible. While applying Durbach and Chappell’s (2014) framework of reparations and transformative justice already paints a bleak picture for ex-combatants in Sierra Leone, a deeper analysis of the TRC’s reparations implementation is needed to fully reveal the localised impact of this element of the TRC on this population.

Glaring TRC recommendation implementation gaps evidence a failure to deliver on local expectations for this mechanism of transitional justice, and signal impact failure in this regard. There is broad consensus among interviewed members of civil society in Sierra Leone that “the TRC put together an excellent and comprehensive reparations programme and recommendations framework, which has

almost entirely fallen flat”²¹². According to one interviewed member of civil society, “the government has largely failed to take action on the TRC’s recommendations”²¹³. This is repeated by another civil society respondent who stated that despite “some progress, much important work remains to be done”²¹⁴. The Chairperson of the Human Rights Commission for Sierra Leone shared that “establishing our Commission (the HRCSL) was an important step forward, but there are still many more implementation failures than successes”²¹⁵. In Sierra Leone, Williams and Opdam (2017) highlight that “although several of the TRC’s recommendations had transformative potential, much of this potential has not been realised due to the failure of the government to implement” (p. 1281).

Despite the comprehensive recommendations framework and reparations programme put forward by the TRC’s Final Report (2004), its potential for transformation, “has largely been lost at the implementation stage” (Williams and Opdam, 2017, p. 1290). A lack of political will on the part of the Government of Sierra Leone was immediately apparent. It took eight months for the Government to respond to the TRC Report, in which it “accepted the recommendations in principle” (Evans, 2012, p. 180), but did not demonstrate a clear commitment to advance their implementation (Evans, 2012; Williams and Opdam, 2017). In 2008, only 20 of the TRC’s 56 recommendations had been “fully or partially implemented” (OHCHR Report, 2009, p. 13).

The TRC’s Final Report (2004) called for the establishment of a follow-up body to monitor implementation of its recommendations. In 2004, the National Human Rights Commission Act was adopted by Parliament, and in 2006 the National Human Rights Commission (NCHR - which is today the Human Rights Commission of Sierra Leone) was established, with considerable technical advice from

²¹² TRC Broker (Civil society) interview, Freetown, March 6, 2018.

²¹³ TRC Broker (Civil society) interview, Freetown, April 15, 2018.

²¹⁴ TRC Broker (Civil society) interview, Freetown, November 21, 2016.

²¹⁵ TRC Broker (Civil society) (HRCSL chairman, at the time of interview), Freetown, May 5, 2017.

OHCHR (Evans, 2012; Williams and Opdam, 2017). Overall, Williams and Opdam (2017) recognise that “some progress was made in education, skills training and intermittent medical service for victims in the years immediately following the TRC Report” (pp. 1290-1292). However, implementation of recommendations remains “modest and many of the structural factors that caused the origins of the conflict remain unchanged” (Evans, 2012, p. 180). “There has been little evidence of broader structural or societal change in Sierra Leone, and the government has ignored many of the recommendations concerning political reforms and good governance” (Williams and Opdam, 2017, p. 1291).

Regarding reparations specifically, Evans (2012) asserts that “an area where the government showed little interest in implementing recommendations was disappointingly, although not unexpectedly, that of reparations” (p. 181). The pre-existing National Commission for Social Action (NaCSA) (established in 1996) was tasked with implementing the TRC’s reparations programme. Despite the Government’s initial reluctance (Evans, 2012), NaCSA established a taskforce for reparations in early 2007, with representation from civil society, victims and a former TRC Commissioner (Williams and Opdam, 2017). By the end of 2007, the UN and the NHRC “urged the government to publish a completion strategy for the implementation of the TRC’s recommendations” (p. 1291).

In August 2008, the Government, with support from the UN’s Peace Building Fund (PBF) undertook a joint one-year project “to provide the foundations for an institutional structure and framework that would facilitate the implementation of reparations” (Suma and Correa, 2009, p. 2), entitled the Year One Project. Williams and Opdam (2017) describe the “urgent measures” incorporated into the Year One Project as “ambitious”, and note that the project ultimately “failed to deliver on its promises” (p. 1292). In 2009, ICTJ undertook an evaluation of the Year One Project (Suma and Correa, 2009). The Year One Project is described as “an important achievement that bears testament to the efforts made by NaCSA to implement an efficient reparations

programme” (Suma and Correa, 2009, p. 13). Yet despite this “remarkable” step forward, the report criticises the inadequate number of victim registrations achieved, and argued that this must be “augmented and expanded” (Suma and Correa, 2009, p. 13). Implementation problems included a “notable lack of political will to implement the recommendations regarding reparations, which translated to a lack of financial support” (Williams and Opdam, 2017, p. 1291), inadequate victim registration work, and only partial reparations payments (Williams and Opdam, 2017). Low political will from the government was evident in their low financial support to the Project, contributing only eight percent of its total cost (Williams and Opdam, 2017). Victim registration numbers were especially low in rural areas, where the additional burden of “travelling long distances” made registration effectively inaccessible (Williams and Opdam, 2017, p. 1292). The “interim payment(s)” received by some victim groups additionally “only partly satisfied the TRC’s recommendation of permanent monthly pensions” (Williams and Opdam, 2017, p. 1292). In December 2009, the Special Fund for War Victims (Special Fund) was established, no less than a decade after it was first called for in the Lomé Accord, and five years after its recommendation by the TRC. The Special Fund was established to guarantee the sustainability of the reparations programme and oversee the Year Two implementation. However, this came to a standstill due to funding shortfalls (Williams and Opdam, 2017). Williams and Opdam (2017) highlight that while the Year One Project “had provided the necessary catalyst for developing a reparations programme, the programme was fatally flawed by its dependence on international funding” (p. 1292).

By 2011, persistent reparations implementation failures led OHCHR to warn that “there is a dire need for further support from the international community” (Evans; Williams and Opdam, 2017, p. 1292, citing OHCHR, 2011). Following from this, renewed international support provided funding for the “approximately 10,753 registered victims” that had yet to receive any reparations (IOM, 2012). Despite episodic international support for reparations, these efforts remain “hampered by a lack of sustainable funding and human capacity” (Williams and

Opdam, 2017, p. 1291). Williams and Opdam (2017) attribute the poor implementation of Sierra Leone's TRC recommendations, and reparations particularly, to a combination of the following factors: the absence of an accountability mechanism to compel government implementation; a lack of political will from the government regarding reparations specifically; diminishing international support and funding; limited national resources; and the recent public health crisis brought on by the Ebola outbreak.

The technical eligibility of ex-combatants to participate within the proposed reparations programme put forward by the TRC (Final Report, 2004) has already been established. However, evidence overwhelmingly points to their practical exclusion from this programme, for two reasons: the need to avoid privileging perpetrators in the distribution of peacebuilding benefits; and their marginalisation from legitimate victimhood within reparations efforts.

As highlighted in Chapter 6, reparations envisioned by the TRC were constructed as an important counterweight to concerns that perpetrators had received "better care" than victims as a result of the reintegration packages they were able to access through DDR (TRC Final Report, 2004, Vol. 2, Ch. 4, p. 236). The need to dispel perceptions of ex-combatants being 'rewarded' for their wartime participation, and fears over volatile inequalities this might engender, are widely echoed in reparations literature on Sierra Leone. Evans (2012) underscores the argument put forward by former TRC Commissioner Yasmin Sooka that:

disproportionate investment by the international community in DDR programmes stands in stark contrast to the lack of support for victims and signalled that failure to sustain support for Truth Commission recommendations relating to reparations may result in a crisis of legitimacy of transitional justice processes (p. 176).

OHCHR emphasised that reparations failures risks "fuelling anger, as the victims' fate is in contrast to that of former combatants (apparent perpetrators) who have received financial assistance and training as part of demobilisation and reintegration programmes" (OHCHR, 2011,

quoted in Williams and Opdam, 2017, p. 1292). Williams and Opdam (2017) further lend support to the binary and oppositional construction of victims and perpetrators by arguing that “many victims were disillusioned by the government’s support for disarmament, demobilisation and reintegration (DDR) programmes and the emphasis on demobilising combatants rather than implementing reparations” (p. 1292). Consensus around the need to avoid rewarding perpetrators, the role of reparations as a moral counterweight to this, and the practical primacy given to idealised victims in the reparations programme indicate the practical exclusion of ex-combatants from meaningfully accessing reparations called for by the TRC, demonstrating positive impact failure for this population in relation to the possibility of receiving reparations.

Secondly, ICTJ’s evaluation (Suma and Correa, 2009) of the Year One Project evidences ex-combatant exclusion from reparations eligibility, despite their technical inclusion in the TRC’s Final Report. Problems inherent to defining victimhood eligibility are cited as one explanation for the observed discrepancy between the number of registered victims and its anticipated total (Suma and Correa, 2009). The report refers to the problem of individuals who were “actually combatants who tried to pass as victims” (Suma and Correa, 2009, p. 5). This framing strongly suggests a practical incompatibility for victimhood eligibility for reparations among ex-combatants, that reinforces the oppositional and binary presentation of these identities discussed above. Practical assessments and writings on the TRC’s reparations programme therefore contrast the legitimate subject position of ex-combatants as potential reparations beneficiaries, embodied in the TRC Final Report eligibility criteria, against their treatment as its inappropriate beneficiaries, in practice. While remaining cognisant of the fact that funding limitations remain a very real and necessary consideration and limitation for any peacebuilding effort, the arguments illuminated above nonetheless advance a problematic normative assumption within transitional justice: that of pitting victims against perpetrators, and the assumption that individuals neatly conform to these binary labels imposed on them. Empirical evidence from this thesis has amply

demonstrated the inadequacy and inaccuracy of this binary identity model.

No evidence of ex-combatant participation within the various phases of Sierra Leone's reparations programme has been found. Documentation on the identification of victims and the eligibility protocols adopted in practice are not available for analysis. No ex-combatant respondents report participating in any reparations efforts. Indeed, no respondents even report attempting to register for these benefits. Several hold that "there were no reparations programmes, I never heard of them"²¹⁶, highlighting poor awareness and potential outreach shortfalls. Others, who reported knowing of these episodic efforts, hold that "as a fighter I could not ask for help, even though I need it too"²¹⁷, maintaining their ineligibility from meaningfully accessing these benefits. Martin shared that "having reparations is good. We need help. The victims deserve these benefits. And so do we (the ex-combatants), because we are also victims"²¹⁸, thus reinforcing the inadequacy, and deleterious effects, of static identity binaries normatively constructed, structurally captured, and practically implemented, within the TRC, in not only its own lifetime, but within the legacy of its impact as well.

A disaggregated local evaluation of the TRC's recommendations shows the exclusion of ex-combatants from its reparations programme in practice. Despite their technical inclusion as potential beneficiaries of reparations within the TRC's Final Report reparations eligibility requirements, evidence on the implementation of reparations points to their practical exclusion within a poorly implemented recommendations framework moreover. Ex-combatants therefore faced processes of exclusion not only from processes of engagement and participation within the TRC, but were also meaningfully excluded from the work of its longer term legacy efforts. This reveals significant impact deficiencies in relation to the ex-combatant population in Sierra Leone,

²¹⁶ CDF Ex-combatant interview, Bo, March 14, 2017.

²¹⁷ RUF Ex-combatant interview, Freetown, January 5, 2019.

²¹⁸ RUF Ex-combatant interview, Freetown, July 2, 2018.

who were disadvantaged in reaping any (potential) benefits from the TRC's work from the start.

Lastly, it is important to reflect on views of the TRC, its recommendations, and in particular its implementation failures, within the current political landscape of Sierra Leone. Despite significant implementation gaps, sporadic international support and limited government political will, calls for implementation of the TRC's recommendations still exist. Persistent implementation gaps within the TRC's recommendations have become an empty promise within the political rhetoric of the country, invoked by politicians but with little to no accompanying action. The newest calls to reinvigorate progress in implementing the TRC's largely stagnant body of recommendations emerged during and after the most recent 2018 presidential elections. Reference to persistent implementation gaps in the TRC's Final Report recommendations and their continued relevance, as a roadmap to development, was evident in the pre-election period, with presidential candidates referring to the TRC and promising to push implementation progress as part of their respective political rhetorics. Shortly after his election to office (May 10th, 2018), SLPP President, HE Julius Maada Bio announced plans for the establishment of an Independent Commission for Peace and Social Cohesion, dedicated to addressing the root causes of poverty and conflict identified by the TRC Report. On the 22nd of November 2018, this governmental commitment was reiterated, through an official press statement, promising the establishment of this Commission by June 2019. As of February 2020, no such Commission has come into existence. The gap between political rhetoric and practice show a continued absence of political will to enforce the measures put forward by the TRC's body of recommendations. A discussion on my own researcher positionality in relation to this proposed Commission can be found in Chapter 2. Additionally, the country's leading journalist and political commentator, Umaru Fofana, regularly shares what he has termed his 'weekly TRC quote' on social media, as a persistent reminder of both the continued relevance of the TRC's findings, and to draw attention to implementation gaps that have existed since publication.

Perceived Causality of the TRC

Ex-combatants widely perceive the TRC to have “brought peace to the country”²¹⁹ but simultaneously hold that the “TRC did nothing for me”²²⁰. A sharp contrast between the micro-level impact of the TRC and its broader national level contributions are ubiquitous among this population. This lends empirical validation to Ainley’s (2015) argument that the truth commission in Sierra Leone “could never have guaranteed reconciliation on an interpersonal level - it could only act at the level of the collective” (p. 254). Deeper probing into the national-level impact of the TRC, as held by ex-combatants, highlights the practical conflation of correlation and causality on the local level. “Before the TRC there was war, now there is peace”²²¹ is the logic that underlies the perceived contribution of the TRC to peace and democracy on the national level. Questions of how the TRC helped secure or cement peace are met with the same answers, though ex-combatants also widely report that while the TRC has contributed to peace, it “could”²²² and “should have done more for us”²²³. “The country has peace now which is a good thing the TRC brought, but the TRC did nothing for me”²²⁴. Perceptions of the TRC as contributing to securing a lasting peace at the national level are therefore widely positive, while perceptions of its contributions to interpersonal healing or improvement are overwhelmingly negative. Within the domain of the local, multiple and contradictory perceived causal impacts, between the micro-level of the individual (ex-combatant) and macro-level state, exist in relation to the contributions made by the TRC. The TRC “brought nothing”²²⁵ to the individual ex-combatant, but it “gave peace to the country”²²⁶. This begs the question: do perceptions of causality (on the national level) hold value as a measure of impact or success? In line with Sirleaf (2013) (see Chapter 5), I argue they do, though it is

²¹⁹ Ex-combatant interviews across Sierra Leone, between 2017 and 2019.

²²⁰ Ibid.

²²¹ Ibid.

²²² Ibid.

²²³ Ibid.

²²⁴ CDF Ex-combatant interview, Bo, June 21, 2018.

²²⁵ Ex-combatant interviews across Sierra Leone, between 2017 and 2019.

²²⁶ Ibid.

clear that this localised approach cannot distinguish between the TRC as causing outcomes or coinciding with them (Ainley, 2015). Perceptions of a causal relationship to peace on the national level continues to legitimise the TRC retrospectively on the micro-level among interviewed ex-combatants who hold that “the TRC was good”²²⁷, “we needed the TRC”²²⁸, and that “it helped bring peace to the country”²²⁹. Additionally, several ex-combatant respondents hold positive associations between the wider domain of the local, comprising the state and national levels broadly, and peace, as a result of the TRC. According to Foday, “the government helped bring the TRC, to make sure there was peace”²³⁰. Santos similarly stated that “the government did a good thing by having the TRC, because there is peace now”²³¹. Furthermore, Joel shared that “if the government did not really want peace, they wouldn’t have let the TRC come”²³². Among ex-combatants, by contributing to peace on the national level, the TRC is regarded as a significant signal of the government’s commitment to peace and democracy after the war, serving further to enhance local perceptions of its institutional legitimacy among ex-combatants.

While this finding of perceived causality within the domain of the local does not overcome the problems of isolating causality, it is still informative. This finding reinforces the fact that local understandings of truth commission contributions cannot be exclusively sought through causal examinations. However, it also highlights the utility of considering perceived causality when examining the local, as these perceptions nonetheless contribute to determinations of institutional legitimacy – in Sierra Leone, the conflation of correlation and causality in relation to the TRC’s contributions to peace at the national level have served to legitimise both the TRC and the post-war government, as a reflection of the post-war commitment to peace by the state.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ CDF Ex-Combatant interview, Bo, June 21, 2018.

²³¹ RUF Ex-Combatant interview, Makeni, August 20, 2018.

²³² SLA ex-combatant interview, Makeni, August 22, 2018.

Impact and Identities in Sierra Leone

The narrative structure of the TRC, normatively derived from the larger binary framework of the transitional justice discourse, demonised ex-combatants in order to restore dignity to victims (see Chapters 4, 7 and 9). The impact of this identity framework has entrenched, rather than dismantled, perceptions of ex-combatants as 'bad', across the local. According to a former TRC official, and current member of civil society, the wider absence of ex-combatants from the TRC's broad recommendations framework, and their practical exclusion from its reparations programme specifically, has "in effect removed them from the broader development agenda"²³³. They "remain stereotyped and disadvantaged in accessing opportunities to climb out of multidimensional poverty"²³⁴ as a result of their invisibility within the work and legacy of, among other processes, the TRC. The negative identity structure imposed on ex-combatants, through the TRC and other institutions, has incurred long-term economic and social costs for this population.

In her examination of reconciliation in Sierra Leone, Friedman (2017) describes a "frozen peace with simmering problems beneath the surface" (p. 119). She attributes this to gaps in formal transitional justice efforts that had limited reach, little consideration of culture and no long-term follow-up or implementation measures (Friedman, 2017). She further draws attention to local perceptions that ex-combatants "were still 'drifting,' and had little economic opportunity" (Friedman, 2017, p. 119). Enria (2015) and Friedman (2017) both emphasise the role of external interventions in exacerbating the economic disadvantage experienced by ex-combatants in Sierra Leone. Enria (2015) highlights that reintegration packages "have focused on labour supply and largely failed to match training with existing labour demand" (p. 643). Friedman (2017) echoes this, positing that reintegration training failed "to lead to gainful employment" (p. 119). A civil society respondent, who worked as part of the DDR programme in Sierra

²³³ TRC Official interview, Freetown, May 10, 2017.

²³⁴ TRC Broker (Civil society) interview, Freetown, December 4, 2016.

Leone, reinforced this view, commenting “the training provided for ex-combatants did not consider which skills would be useful or where they could be used. What good is a mechanic if there are no cars in his village?”²³⁵ He further attributes widespread ex-combatant resettlement within the capital of Freetown to these poorly considered reintegration training schemes, stating that “even if they didn’t want to settle in Freetown, the skills they were given give them little hope for jobs anywhere else”²³⁶.

The social costs of the perpetrator narrative implanted on the ex-combatant population, which the TRC not only failed to dismantle, but actively embedded, through its politics of blame, are similarly high. The majority of ex-combatant respondents demonstrate a desire to shed their ex-combatant identity. To be clear, this desire to distance themselves from their pasts is not a reflection of shame or an attempt at erasure. As previously discussed in Chapter 9, ex-combatants demonstrate a remarkable willingness to speak openly about their fighter histories. What they do seek is recognition that they are no longer combatants, and that they were *not only* combatants. In an interview outside his home in rural Makeni, Mansaray shared: “I am not just ex-RUF. I am a father, I am a carpenter, I am a husband... I am not RUF anymore”²³⁷. In expressing the desire to remove the heavy cloak of their ex-combatant identities, respondents commonly state “I am not a fighter anymore”²³⁸ and emphasise that “I will not fight again”²³⁹. The view is commonly held, in academic and policy circles, that ex-combatants are especially prone to violence because their “hands are particularly accustomed to diabolical acts” (Mitton, 2013, p. 324). However, Mitton (2013) argues that the opposite is in fact true. According to him, the high social costs that come with the perpetrator label contribute to dis-incentivising renewed violence among exactly this population (Mitton, 2013). This thesis reinforces Mitton’s findings

²³⁵ TRC Broker (Civil society) interview, Freetown, April 15, 2018.

²³⁶ TRC Broker (Civil society) interview, Freetown, March 10, 2017.

²³⁷ RUF Ex-combatant interview, Makeni, August 21, 2018.

²³⁸ Ex-combatant interview, Bo, June 25, 2018.

²³⁹ Ex-combatant interviews throughout Sierra Leone, between 2017 and 2019.

of the social costs of peace among ex-combatants, along the two dimensions presented in his argument: (i) ex-combatants widely reject a desire to return to violence; (ii) though remain labelled as 'bad' and likely to rearm. This second dimension, of negative perceptions towards ex-combatants, warrants attention.

Despite generally feeling safe and comfortable in their communities, the social costs and stigma that have accompanied the embedded ex-combatant perpetrator identity are clear. This does not appear to manifest in everyday life, but comes to the fore in particular circumstances: political violence and criminality. In a separate research project, investigating political violence during the 2018 elections in Sierra Leone, a study that I led revealed that across the country ex-combatants remain widely held to form the bulk of the 'political thug' population in Sierra Leone. Among other levels of the local, previous histories of violence are the primary explanations offered for why people attribute episodes of electoral violence to the ex-combatant population (a bias that has clearly been reinforced by the static binary identity framework within transitional justice). Similarly, ex-combatant interviewees at times highlight the disadvantage they face in their communities in respect to suspicion for crimes. Ben, who has lived in Waterloo since the end of the war, and earns an unsteady living selling mobile phone credit, shared that "any time there is a crime here and they don't know who it was, they accuse me"²⁴⁰.

Overwhelmingly, ex-combatant respondents seek to unburden themselves from their ex-combatant pasts, and the long-term economic and social costs that this perpetrator identity has brought. The guilty perpetrator label casts a shadow over the ex-combatant's past, and also obscures his future. However, throughout the course of fieldwork for this thesis, two notable, and indeed frightening, exceptions deserve attention.

²⁴⁰ RUF Ex-combatant interview, Freetown, January 5, 2019.

William is a former RUF fighter, who joined the rebels voluntarily in 1993, and remained with them until the end of the war. He is an active supporter of the RUF – the political party into which the RUF was transformed following the end of the war. At the time of his entry into the RUF, William was 30 years old, and he reports to have joined “because I was tired of only watching and hearing about the war, I knew it was my duty to join”²⁴¹. Within the RUF, William found community and power – “your unit is your family, they never abandon you”²⁴². When asked if he ever considered leaving the RUF, William’s response was “no, of course not. How could I leave my family? In the war I had everything, power that I can’t get through peace”²⁴³. William recounts his responsibilities to train ‘new recruits’ who were often children, the forcible recruitment of which he referred to as ‘adoption’ rather than abduction. At the end of the war, William shared that he refused to participate in any peacebuilding process, rejecting both DDR and the TRC, claiming that neither brought any ‘good’ to the country. He works as an okada driver in Bo, where he has settled, though he is originally from Kailahun. He describes his life since the war as “difficult. I am not free. I struggle”²⁴⁴. When asked about the future and the state of peace in the country he holds that “I should be president of this country by now”²⁴⁵ and openly hopes for a return to violence, emphasising, “I want to fight. I am ready. I’m waiting”²⁴⁶.

William’s longing for a return to war is shared by Alpha, an ex-combatant living in his hometown of Makeni. Alpha was, in his own words, ‘adopted’ by the RUF when he was 13 years old, in 1994. Over the course of the remaining years of the war, he reports to have fought “for every group, even in Liberia with Taylor”²⁴⁷. As a child soldier, Alpha participated in two disarmament processes during the war, and describes each instance as taking place against his will, “I did not

²⁴¹ RUF ex-combatant interview, Bo, September 9, 2018.

²⁴² Ibid.

²⁴³ Ibid

²⁴⁴ Ibid.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

²⁴⁷ RUF Ex-combatant interview, Makeni, August 21, 2018.

choose to go, they took me”²⁴⁸. Both times, Alpha recounts his escape from the disarmament camps (he “ran away”²⁴⁹) and his voluntary return to the war. Alpha comments that he “was good at war”²⁵⁰ and even stated that “I hope the elections go badly, so that I can hold my gun again. I am a soldier”²⁵¹. He describes his combatant experience during the war as one wherein “I was powerful, and I had control. If I wanted something, I could take it. People listened to me, because they were loyal, or they were afraid. In the war I had power. Now, I don’t”²⁵². While Alpha has found gainful employment in the years after the war, working currently as a security guard for a mining company, he still considers his post-war situation as one of powerlessness. According to him “there is more power in taking than receiving”²⁵³.

William and Alpha’s experiences highlight a critical theme: power and powerlessness. For both William and Alpha, the war brought them power, while peace has left them vulnerable, dependent and powerless. It stands to reason that the social and economic identity costs accompanying the TRC (though not exclusively stemming from it – it is clear that the TRC is one piece of a larger problematic normative and narrative post-conflict framework) have either contributed to this powerlessness, or at the very least failed to empower ex-combatants.

Conclusion

In conclusion, when applying a localised framework of impact evaluation through the disaggregated lens of the ex-combatant population in Sierra Leone, impact failure of the TRC is widely evidenced. The localised framework of impact evaluation developed in Chapter 5 has been applied along its six dimensions: local expectations, outcomes (in particular truth-telling), institutional mandate, institutional engagement, recommendations (in particular

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid.

reparations), and identities. Along the dimension of expectations, the significant mismatch between ex-combatant justice needs and expectations towards the TRC and its institutional mandate evidence impact failure. For the particular outcome of truth-telling, the restricted participation space granted to this population further highlights impact failure and the generation of a narrow truth, that ex-combatants widely hold to be incomplete and inaccurate. Regarding mandate evaluation, particular attention is paid to the TRC's mandated role of facilitating reconciliation. Interviewed ex-combatants do not attribute their personal experiences of reintegration or reconciliation to the TRC, further evidencing impact failure along this dimension. Institutional engagement as an evaluative measure is once more highlighted to have excluded ex-combatants from the design, operations and potential benefits of the TRC. On the dimension of recommendations, persistent implementation gaps and evidence of the meaningful exclusion of ex-combatants from the Commission's reparations scheme specifically showcase impact failure once more. Furthermore, the long-term identity impact of the TRC, treating ex-combatants as simple perpetrators, has cemented negative associations against them. This has brought significant economic and social costs for this population, and reinforces Chapter 9's discussion on the social forms of punishment produced by the TRC. A negative impact of the TRC among ex-combatants is once again clearly evident. However, on the issue of perceived causality, it is possible to identify a positive impact of the TRC experienced by interviewed ex-combatants. Despite not experiencing a positive personal (or micro-level) impact with regards to reconciliation or reintegration from the TRC, ex-combatants do widely hold a positive macro-level impact between the TRC and peace at the national level. The TRC is believed to have helped cement peace in the country. Additionally, its establishment by the government has granted the state a measure of institutional legitimacy as a body committed to peace, as well.

Two important limitations to this localised framework application warrant recognition. Firstly, while disaggregating the local adds nuance to localised impact evaluations, it also means that these

findings reflect only one component within the larger and complex domain of the local. Additional disaggregated research, focusing individually, and comparatively, on other constituent populations and levels of the local, is needed to adequately reveal the breadth of local transitional justice impacts within the contexts in which they are implemented. Secondly, this study's exclusive engagement with ex-combatants who did not directly participate in the TRC means that it is not possible to speak to the impacts that may have been felt by ex-combatants who did participate in the TRC, or identify differences between ex-combatant participants and non-participants. The impact failure of the TRC among non-participant ex-combatants does not preclude the possibility that impact success (positive impacts) occurred elsewhere, only that such potential successes are not represented by this particular population.

Chapter 11

Conclusion

This thesis has undertaken an empirically detailed examination of the relationship between ex-combatants and the TRC in Sierra Leone. The particular focus of this research has been the population of non-participant, low to mid-level ex-combatants, defined as belonging to the wider population of ‘perpetrators’ and explicit TRC participants by the TRC itself. This thesis has sought to illuminate, describe and understand the relationship between ex-combatants and the TRC along two axes. Firstly, it has interrogated the rhetoric, ritual and reality dimensions of transitional justice and truth commissions more broadly, and that of the TRC in Sierra Leone specifically. This detailed critique of the normative, institutional and practical dimensions of post-conflict truth commissions and transitional justice has empirically revealed serious shortcomings within the binary identity framework of transitional justice. In Sierra Leone, these shortcomings constricted the inclusive, participatory and transformative potential of its truth commission. The second axis of this thesis has provided a comprehensive localised examination of TRC experiences among ex-combatants in Sierra Leone. It has developed a comprehensive micro-level understanding of ex-combatant expectations, experiences and impacts in relation to the TRC. This grounded evaluation adds nuance to growing calls for localised research within transitional justice, among a segment of the local that is both necessary to, and neglected within, research, policy and practice.

It is, however, critical to note that Sierra Leone’s TRC is not an example of transitional justice, or a truth commission, gone bad. The criticisms levelled against the TRC in this thesis illustrate a larger, and normatively produced, shortcoming within the practice of this particular mechanism of transitional justice, and inherent to the field of transitional justice more broadly – namely its binary identity participation framework. Processes and sources of exclusion faced by ex-combatants as perpetrators before the TRC are not unique to Sierra

Leone. Liberia's truth commission evidences the pervasive application of transitional justice's problematic binary identity framework of participation. The TRC in Liberia similarly implemented a binary framework of local participation, of victims and perpetrators, evidenced in its mandate and Final Report documents. Further research exploring and localising examinations of the relationship between ex-combatants and truth commissions is therefore necessary to validate the exploratory findings compiled within this thesis, and to allow for the construction of grounded theory, to propel the industry of truth commissions towards realising their transformative potential.

In many respects, Sierra Leone's TRC can be commended. Described by a member of the TRC Working Group, who now (at the time of writing) holds a prominent position in the country's justice sector, as the (Special) Court's "poor cousin", the TRC was still "incredible value for money", that nonetheless produced a detailed (albeit narrow) report whose "findings remain relevant and important guidelines for addressing ongoing sources of fragility in Sierra Leone". The TRC in Sierra Leone did not enjoy the high levels of funding, visibility or time that other commissions, such as that of South Africa, did. Nonetheless, its legacy is widespread, and continues to be seen as a concrete signal of a commitment to peace.

The first axis of this thesis illuminated the inadequacies of the binary identity framework that currently dominates the discourse and practice of transitional justice. Victim and perpetrator identities are normatively and externally constructed and designated without consideration of the complexity of lived conflict experiences among local transitional justice participants, onto whom such labels are cast (articulated in Chapter 4). This identity rhetoric was strongly translated onto the ritual of participation in the design of the TRC in Sierra Leone (discussed in Chapter 6). In reality, despite an explicit space accorded to the participation of perpetrators, this thesis has revealed multiple processes and sources of exclusion that resulted in the practical alienation of ex-combatants within the TRC (Chapters 7-10). The institutional logic of assumed perpetrator participation within the TRC

has been both conceptually articulated, in Chapter 4, and empirically demonstrated, in Chapter 7. Secondly, the TRC's hierarchical participation model, privileging the 'innocent victim' as both the exclusive beneficiary of transitional justice, and as the starting point for truth-telling, marginalised ex-combatants within the Commission and prevented their voluntary participation (see Chapter 8). The application of both this institutional logic of assumed perpetrator participation and a hierarchical model of participation, with the innocent victim at its apex, failed to consider the role of motivations or acknowledge experiences of suffering among ex-combatants in Sierra Leone. Resultantly, the TRC largely failed to achieve either its inclusive and cross-cutting participation aims or to produce a 'democratising truth'. Finally, the conflict identities of victims and perpetrators, enforced by the TRC have further entrenched stigma against ex-combatants (see Chapter 10).

Along its second axis of examination, this thesis has uncovered the expectations, experiences and impacts of ex-combatants in relation to the TRC, through a localised approach. Illuminating ex-combatant expectations towards the TRC (in Chapter 7) has shed empirical light on their post-conflict justice needs, and the impact of the concurrently operating processes of DDR and the SCSL, on perceptions of the TRC. Empirically revealing these expectations also showcases significant divergences between the localised level of ex-combatants, against the mandated aims and institutional aspirations of the TRC itself (Chapter 7). The discrepancy between local expectations and institutional objectives raises the important question of whose justice interests underpin truth commissions and transitional justice broadly. In developing the localised framework of institutional engagement for this thesis Chapter 5 introduced the dilemma that emerges when local justice expectations do not align with institutional objectives. It presented the following questions: when local expectations and realistic outcomes are mismatched, where does the fault of failure lie: is it the responsibility of affected populations to lower their justice expectations? Or does it lie with the institution itself, for failing to accommodate or deliver the justice needs of its explicit participants

and beneficiaries? The multi-level empirical investigation of Sierra Leone's TRC within this thesis reveals that in reality, the answer to all of these questions is yes. Achievable and realistic boundaries on what a truth commission can achieve need to be drawn in absolute (external) as well as relative (localised) terms. Reconciling the normative rhetoric and institutional ritual of this field against the complex realities within the local requires greater accommodation of this complexity within the framework of truth commissions, as well as realistic and achievable justice demands among the local. Establishing and managing expectations within truth commissions is therefore bi-directional, requiring clear limits on what truth commissions can offer, as well as formatively incorporating the particular justice needs and expectations of affected populations.

This thesis empirically reinforces salient criticisms against the Western justice paradigm at the heart of transitional justice. Along the dimension of ex-combatant TRC experiences, this thesis exposes the structural space for ex-combatant engagement within the TRC to have been largely exclusionary. The prescribed inclusion of ex-combatants, as explicit TRC participants, is revealed in Chapter 6. The juxtaposition of this prescribed inclusion against their practical exclusion is revealed firstly in Chapter 8, through the empirical and localised application of the framework of institutional engagement developed in Chapter 5. Chapter 8 has revealed that formal incorporation of ex-combatants was constructed on the basis of normative assumptions around the distinct, homogeneous and mutually exclusive binary conflict identities of victims and perpetrators that pervade the enterprise of transitional justice more broadly. An absence of ex-combatant voice and agency within the ownership and inclusion dimensions of institutional engagement within the TRC, despite recognition of their necessary participation (illustrated in Chapter 6) by TRC entrepreneurs, is a significant shortcoming. This showcases the persistent and problematic practice of transitional justice to idealise conflict experiences that are in reality much more complex than simple archetypes, and privilege the justice needs of innocent victims, at the cost of 'complex' ex-combatant agency. Some effort to accommodate

the complexity of individual conflict experiences within the structure of the TRC is found within the statement-taking form it designed, that allowed for individuals to share experiences of personal victimisation as well as of victimising others. Yet, the perpetrator was not represented within the TRC, and this is evident in the problematic binary model of participation that was implemented. In fact, the space given to TRC brokers moreover, on the level of the local, in particular civil society, progressively diminished across the dimensions of ownership and inclusion (evidenced in Chapter 8). The uneven and deteriorating distribution of agency among TRC entrepreneurs showcases the pitfalls of elite capture, particularly evidenced in the influence exercised over the TRC's designs and operations by the Government of Sierra Leone. In its disaggregated investigation of the local in relation to the TRC, this thesis importantly draws attention to the diversity inherent among the local, whose interests not only diverge but compete, and the deleterious effects of asymmetric power relationships that resultantly enabled the politicisation of the TRC in ways that limited its justice-seeking capacities, practices and impacts.

Along the dimension of participation, this thesis lends empirical support to the problematic normative limitations of the binary identity structure of transitional justice, delineated in Chapter 4 and empirically evidenced throughout Part Three. Chapter 9 showcases that, in practice, this normatively-constructed and institutionally-manifested participation model served to alienate ex-combatants from exactly the transitional justice process that sought to (re)integrate, reconcile, repair and positively transform relationships on the individual, community and national levels. The TRC's failure to seek a rich understanding of the past, by limiting its universe of injustice to the experiences of the ideal victim excluded motivations from its memory-collecting project. Its binary participation model of imposed identities meant that ex-combatants did not consider themselves appropriate participants within this institution. The analysis has also exposed the severe inadequacy of the logic of assumed perpetrator participation that pervades the normative and structural planes of truth commissions, and its detrimental effects on the possibilities for

meaningful participation among the local. The intrinsic absence of legal punitive measures within the restoratively-oriented model of justice in truth commissions is not the same as the absence of punishment. Rather, punishment masks itself in social and political forms instead, as a result of the blame and guilt that are nonetheless ascribed to the body of TRC participants designated as perpetrators. A politics of blame strongly underpinned the structure and operations of the TRC, in relation to its participation model. The role of blame within the TRC in designating and demonising the perpetrator centralises the concept of punishment within this mechanism of transitional justice. Further critical research is needed to investigate and unpack the relationship between punishment and truth commissions, which this thesis argues requires re-examination. This thesis shows that an understanding of punishment as restricted to judicial measures (i.e. prosecution), presents a normative fallacy. Punishment can exist along several dimensions, including social, economic and political ones. As this thesis highlights, it was not the fear of punishment in the form of prosecution, but rather fear of punishment along its social axis, that prevented much ex-combatant participation in the TRC. Findings around the need to unpack the concept of punishment within truth commissions are, however, restricted by this thesis' primary focus on the population of non-participant ex-combatants in relation to the TRC. While the need to re-examine the concept of punishment within truth commissions is clearly evidenced, this study's findings cannot speak to the potential experiences of punishment (or positive outcomes) among participant ex-combatants. Further research on ex-combatant participants within truth commissions is needed to adequately understand the full breadth of the various forms of punishment that truth commissions may impart.

Unsurprisingly, along the dimension of TRC impact, Chapter 10 of this thesis finds the TRC to have largely failed to exert a positive effect on the population of non-participant ex-combatants. This challenges the claim of cascading benefits, beyond the population of direct participants, that is held among truth commission proponents. Redemption for the perpetrator and redress for the victim were

expressed through a diametric justice model that required reducing complex individual conflict experiences into simple binary identities. This identity structure, among ex-combatants, has defined their conflict histories as well as limited their post-conflict development.

Altogether, the unforgiving and inflexible binary identity framework of the TRC in Sierra Leone significantly deterred ex-combatant participation in the TRC. The ritual of Sierra Leone's TRC was constructed to exorcise the perpetrator; however, this firstly involved demonising the ex-combatant. This process, of demonising the ex-combatant in order to exorcise him/her, as part of the TRC's victim-oriented agenda, served effectively to distance this population from the TRC, in multi-faceted processes of structural, external and voluntary exclusion, which this thesis has illuminated.

Borer (2003) reflects that "if truth is the first casualty of war, then complexity must surely be the second" (p. 1116). The examination of non-participant ex-combatants in relation to Sierra Leone's TRC decisively demonstrates the failure of transitional justice to acknowledge, let alone incorporate, the complexities of individual conflict experiences. This thesis empirically supports Borer's (2003) argument that "it is easier and more satisfying for people to think in terms of absolutes" (p. 1116). However, and more importantly, it has also amply demonstrated the need for transitional justice to break existing binaries, if it is to realise its transformative potential. Universally, interviewed ex-combatants have shared the complexity inherent to their lived conflict experiences, the desire for acknowledgement of their own experiences of suffering, and of a platform to achieve a contextualised understanding of these intersecting experiences, of both victimisation and perpetrated abuses.

Freeman (2006) writes optimistically that the "history of truth commissions is still being written" (p. 22). This thesis has importantly called attention to who has authored this history to-date. In the chapters of transitional justice to come we must re-examine whose history this discourse writes. The genuine localisation of both the practice and research of transitional justice generally, and truth

commissions specifically, requires breaking the binaries of simple victims and perpetrators. Experiences of suffering and committing or participating in abuses cannot be neatly catalogued into distinct, homogenous and oppositional identities. They do not occur in isolation, nor are they mutually exclusive. This thesis has empirically demonstrated that post-conflict truth commissions need to recognise, and accommodate, the universe of the ex-combatant's intersecting experiences of victimhood and victimisation, which contains multitudes.

Appendices

Appendix A: Ex-Combatant Respondent Data

*All respondent names have been changed to ensure their anonymity.

Interviews with 112 ex-combatants took place between 2017 and 2019.

<u>Ex-Combatant Respondents</u>			
Name*	Affiliation	Location	Date
Thomas	RUF	Freetown	February 18 2017
Jeffrey	RUF	Freetown	February 20 2017
Kevin	RUF	Freetown	February 20 2017
Lahai	RUF/AFRC	Freetown	February 21 2017
Eddie	RUF/AFRC	Freetown	February 21 2017
Felix	RUF	Freetown	February 22 2017
Hector	RUF	Freetown	February 23 2017
Respondent 8	RUF	Freetown	February 24 2017
Omar	SLA	Freetown	February 25 2017
Respondent 10	SLA	Freetown	February 26 2017
Alie	RUF	Makeni	February 28 2017
Anthony	RUF	Makeni	February 28 2017
Ibrahim	RUF	Makeni	March 1 2017
Robbie	SLA	Makeni	March 1 2017
Richard	CDF	Bo	March 12 2017
Simon	CDF	Bo	March 12 2017
Darren	CDF	Bo	March 12 2017
Josef	CDF	Bo	March 13 2017
Charlie	CDF	Bo	March 13 2017
Respondent 20	CDF	Bo	March 13 2017
Respondent 21	CDF	Bo	March 13 2017
Respondent 22	CDF	Bo	March 13 2017
Osman	CDF	Bo	March 14 2017
Respondent 24	CDF	Bo	March 14 2017
Respondent 25	CDF	Bo	March 14 2017
Respondent 26	CDF	Bo	March 15 2017
Respondent 27	SLA	Makeni	September 18 2017
Respondent 28	SLA	Makeni	September 19 2017

Respondent 29	SLA	Makeni	September 19 2017
Respondent 30	SLA	Makeni	September 20 2017
Respondent 31	CDF	Bo	September 28 2017
Abdul	CDF	Bo	September 29 2017
Patrick	CDF	Bo	September 29 2017
Respondent 34	CDF	Bo	September 30 2017
Ralph	RUF	Bo	September 30 2017
Reggie	RUF	Bo	October 2, 2017
Timothy	RUF	Bo	October 2, 2017
Adam	SLA	Freetown	November 4 2017
Respondent 39	SLA	Freetown	November 4 2017
Respondent 40	SLA	Freetown	November 5 2017
Francis	Kamajor	Bo	January 15 2018
Henry	RUF	Bo	January 16 2018
Respondent 43	SLA	Bo	January 16 2018
Freddie	SLA	Bo	January 17 2018
Peter	RUF	Makeni	February 1 2018
Tony	RUF	Makeni	February 1 2018
Jonathon	RUF	Makeni	February 2 2018
Nigel	RUF	Freetown	May 21 2018
Junior	RUF	Freetown	May 21 2018
Nicholas	SLA	Freetown	June 1 2018
Respondent 51	SLA	Freetown	June 2 2018
Respondent 52	SLA	Freetown	June 3 2018
Respondent 53	SLA	Freetown	June 3 2018
Christopher	CDF	Bo	June 20 2018
Respondent 55	CDF	Bo	June 21, 2018
Foday	CDF	Bo	June 21, 2018
Respondent 57	CDF	Bo	June 22 2018
Emanuel	CDF	Bo	June 22 2018
Respondent 59	CDF	Bo	June 23 2018
Respondent 60	CDF	Bo	June 24 2018
Respondent 61	CDF	Bo	June 24 2018
Respondent 62	CDF	Bo	June 24 2018
Saidu	Other	Bo	June 25 2018
Respondent 64	Other	Bo	June 25 2018

Martin	RUF	Freetown	July 2 2018
Jonah	RUF	Freetown	July 3 2018
Sallieu	RUF	Freetown	July 3 2018
Respondent 68	RUF	Freetown	July 4 2018
Harold	RUF	Makeni	August 20 2018
Michael	RUF	Makeni	August 20 2018
Santos	RUF	Makeni	August 20 2018
Mansary	RUF	Makeni	august 21 2018
Alpha	RUF	Makeni	august 21 2018
Respondent 74	SLA	Makeni	august 22 2018
Joel	SLA	Makeni	august 22 2018
Amadu	RUF	Makeni	august 22 2018
Gregory	RUF	Makeni	august 23 2018
Santos	RUF	Makeni	august 23 2018
Respondent 79	Other	Makeni	august 24 2018
Respondent 80	RUF	Makeni	august 24 2018
Respondent 81	SLA	Freetown	August 28 2018
Respondent 82	SLA	Freetown	August 28 2018
Thomas	RUF	Bo	September 8 2018
William	RUF	Bo	September 9 2018
Gibril	RUF	Bo	September 9 2018
Respondent 86	RUF	Bo	September 10 2018
Respondent 87	SLA	Bo	September 10 2018
Respondent 88	SLA	Bo	September 11 2018
Respondent 89	SLA	Bo	September 11 2018
Wesley	RUF	Freetown	October 17, 2018
Respondent 91	RUF	Freetown	October 17, 2018
Respondent 92	RUF	Freetown	October 17, 2018
Respondent 93	SLA	Freetown	October 19 2018
Siaka	SLA	Freetown	October 19 2018
Respondent 95	SLA	Freetown	October 19 2018
Respondent 96	SLA	Freetown	October 20 2018
Respondent 97	CDF	Freetown	October 21 2018
Respondent 98	SLA	Makeni	October 26 2018
Respondent 99	SLA	Makeni	October 26 2018
Respondent 100	RUF	Makeni	October 27 2018
Tejan	RUF	Makeni	October 27 2018

Respondent 102	RUF	Makeni	October 27 2018
Hassan	RUF	Makeni	October 27 2018
Respondent 104	RUF	Makeni	October 29 2018
Respondent 105	RUF	Makeni	October 29 2018
Respondent 106	RUF	Makeni	October 30 2018
Sulay	CDF	Freetown	November 15 2018
Respondent 108	CDF	Freetown	November 15 2018
Vincent	CDF	Freetown	November 15 2018
Respondent 110	CDF	Freetown	November 15 2018
Barry	RUF	Freetown	January 5, 2019
Ben	RUF	Freetown	January 5, 2019

Appendix B: TRC Entrepreneur Respondent Data

TRC Officials:

<u>TRC Officials</u>			
	Position	Location	Date
1	statement taker/research and outreach unit	Freetown	May 3 2017
2	TRC Regional Coordinator/research and outreach unit	Freetown	May 5 2017
3	statement taker	Freetown	May 8 2017
4	statement taker	Freetown	May 10 2017
5	statement taker/research and outreach unit	Freetown	May 11 2017
6	statement taker/research and outreach unit	Freetown	May 14 2017
7	statement taker	Makeni	March 2 2017
8	research and outreach unit/statement taker	Freetown	May 20 2017
9	research and outreach unit	remote interview	August 15 2018
10	TRC Commissioner	remote interview	April 27, 2018
11	government official	freetown	December 18 2018

TRC Brokers (members of civil society):

*All interviews except for one have been anonymised. TRC Broker 15, John Caulker, was the chairperson of the TRC Working Group and is the founder of Fambul Tok (a well-known alternative grass-roots reconciliation organisation in Sierra Leone). John Caulker consented to the use of his name as part of this research (which would have been difficult to anonymise given his positionality as a TRC broker specifically and transitional justice expert in Sierra Leone more generally). This consent is part of the recorded interview conducted with him on the 8th of October in 2017.

<u>TRC Brokers (Civil Society)</u>			
	Interviewee	Location	Date
1	TRC Broker 1	Freetown	November 19 2016
2	TRC Broker 2	Freetown	November 19 2016
3	TRC Broker 3	Freetown	November 21 2016
4	TRC Broker 4	Freetown	November 23, 2016
5	TRC Broker 5	Freetown	December 3 2016
6	TRC Broker 6	Freetown	December 5, 2016
7	TRC Broker 7	Freetown	December 1, 2016
8	TRC Broker 8	Freetown	December 2 2016
9	TRC Broker 9	Freetown	December 4 2016
10	TRC Broker 10	Freetown	December 6 2016
11	TRC Broker 11	Freetown	March 8 2017
12	TRC Broker 12	Freetown	March 9 2017
13	TRC Broker 13	Freetown	March 10 2017
14	TRC Broker 14	Bo	March 15 2017
15	John Caulker*	Freetown	October 8 2017
16	TRC Broker 16	Freetown	February 19 2018
17	TRC Broker 17	Freetown	March 4 2018
18	TRC Broker 18	Freetown	March 6 2018
19	TRC Broker 19	Freetown	April 15 2018
20	TRC Broker 20	Freetown	January 19, 2019
21	TRC Broker 21	Freetown	January 24 2019

Appendix C: Ex-Combatant Interview Guide

The following questions were used to guide ex-combatant interviews. Important to note is that interviews were not restricted by these questions – their primary purpose was to guide and structure interviews along the main themes of this thesis's investigation. Consent was verbally received from all respondents, who were informed three times (before, during at the end of each interview) during each interview about their ability to withdraw this consent at any point, as well as reiterating their right not to answer any question(s) they did not want to.

Ex-combatant profile questions:

1. Age
2. Affiliation: Which group did you belong to during the war?
3. Nature of affiliation: voluntary or forced
4. When did you join? Leave?
5. Where were you located during the war?
6. Where did you go in the years after the war?
7. Did you participate in the DDR program?

TRC:

8. Did you know about the TRC during its time of operation?
9. How did you hear about the TRC?
10. Where were you during the time the TRC operated?
11. Why did the TRC come to Sierra Leone?
 - a. What were its purposes?
12. How did the TRC work to achieve these purposes? (what were its activities, can you name an example?)
13. Was the TRC successful? How? Why or why not?
14. Did you participate in the TRC? Attend? Talk?
 - a. Why not?
15. Did you want to talk (participate) to the TRC? Why/not? What prevented this?
16. Did the TRC have an impact on your life? How?

17. Were ex-combatants supposed to talk in the TRC?
 - a. All ex-combatants? If not, which ones?
18. Should ex-combatants have participated (more) in the TRC?
Why or why not?
 - a. Why do you think not more ex-combatants participated?
Why was there such low ex-combatant participation?
How could this have been improved?
19. The TRC defines all ex-combatants as perpetrators, do you think this is accurate? Why not?
20. Do you consider yourself a perpetrator?
21. What does reconciliation mean to you?
22. Do you feel reconciled?
 - a. Did the TRC contribute to this? How?
23. What does reintegration mean to you?
24. Do you feel reintegrated?
 - a. Did the TRC contribute to this? How?
25. What does justice mean to you?
 - a. Do you feel satisfied with the justice measures served in Sierra Leone? Did the TRC contribute to justice? How?
26. What does accountability mean to you? Who should be held accountable and why?

Contemporary relevance of TRC

27. Does the TRC still mean anything?
28. How well was the TRC implemented?
29. Is there still a need for TRC?
30. What could the TRC do today?

TRC and DDR:

31. Did you participate in the DDR program? Why or why not?
 - a. What was your experience of the DDR program like?
32. Was DDR successful? Why? How?
33. What was the purpose of the DDR?
34. How were the TRC and DDR different/related?

TRC and SCSL

35. What was the SCSL? What did it do? Purposes? How?

36. What was the relationship between the TRC and the Special Court?

Final Question:

37. Is there anything else you would like to share or talk about before we end the interview?

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